

COUNCIL ORDINANCE # 519-24

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHOWCHILLA CALIFORNIA, AMENDING CHOWCHILLA MUNICIPAL CODE SECTIONS 18.08 – LAND USE TABLES; 18.60.120 – MOBILE FOOD VENDOR; 18.96.020 – DEFINITION OF LAND USE; AND APPROVE THE ADDITION OF TITLE 9.06 – VENDING ON PUBLIC PROPERTY, AND TITKE 9.07 – FOOD TRUCK VENDING (ZONE CODE TEXT AMENDMENT 23-0736)

WHEREAS, The City of Chowchilla (“City”) undertook a comprehensive Zoning Ordinance update in 2018; and

WHEREAS, the City Council voted to adopt the updated Zoning Ordinance on October 9, 2018 and the updated Zoning Ordinance went into effect on November 8, 2018; and

WHEREAS, the City, in response to comments from the community in opposition to current mobile vendor regulations, created an Ad Hoc Committee to propose modifications and/or create new regulations regarding mobile food vendors; and

WHEREAS, these proposed amendments and additions were developed to address recent updates in state law regarding mobile food vendors while also addressing the City’s health and safety concerns and addressing community concerns; and

WHEREAS, a public hearing was duly noticed for the January 23, 2024, City Council meeting; and

WHEREAS, at their January 17, 2024 meeting, the Chowchilla Planning Commission voted unanimously to recommend that the City Council approve the amendments to Chowchilla Municipal Code Sections 18.08 – Land Use Tables, 18.60.120 - Mobile Food Vendor, 18.96.020 – Definition of Land Use; and

WHEREAS, the Zoning Ordinance Update is covered by the Environmental Impact Report that was completed for the City’s 2011 General Plan Update and a determination has been made that no additional CEQA analysis is required as part of these proposed Zoning Ordinance amendments, Pursuant to CEQA Guidelines 15305; and,

WHEREAS, the City Council has carefully considered the staff report, Ad Hoc Committee recommendations and all oral and written evidence presented during the public hearing.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Chowchilla hereby ordains:

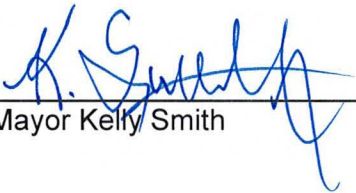
1. The zoning ordinance amendment is internally consistent with the goals, objectives, and policies of the General Plan and this title;
2. The zoning ordinance amendment would not be detrimental to the public health, safety, or welfare of the community;
3. The zoning ordinance amendment would maintain the appropriate balance of land uses within the city;
4. The anticipated land uses on the subject site would be compatible with existing and future surrounding uses.
5. The ordinance revisions to **Municipal Code Sections 18.08, 18.60.120, and 18.96.020** are set forth in **Exhibit A**.

6. Council hereby adopts and approves the addition of **Chapter 9.06 (Exhibit B) and Chapter 9.07 (Exhibit C)** to the Chowchilla Municipal Code.
7. The provisions of this resolution are severable, and the validity of any part thereof, including any fee, shall not affect the validity or effectiveness of the remainder of the resolution.

The foregoing Ordinance was introduced at a Regular Meeting of the City Council of the City of Chowchilla, California, held on the 23rd day of January, 2024 and was passed and adopted at the Regular Meeting of the City Council held on the 13th day of February, 2024 by the following vote to wit:

AYES: 5 – Troost, Chavez, Ahmed, Barragan, Smith
NOES: 0
ABSENT: 0
ABSTAIN: 0

APPROVED:



Mayor Kelly Smith

ATTEST:



Joann McClendon, CMC,
City Clerk

Chapter 18.08 LAND USE TABLES

Section:

18.08.030 Commercial, office, and industrial land use table.

A. The following table identifies which land uses are permitted by right, require a use permit, or are not allowed in the C-N, C-S, C-H, MX-D, MX, O, I-L, I-H, PF, and OS zones.

B. A “P” means that the use is permitted by right in that zone. A “C” means the use requires a conditional use permit in that zone. An “A” means the use requires an administrative use permit in that zone. A “T” means the use requires a temporary use permit in that zone. A blank box means the use is not allowed in that zone.

C. Land uses are grouped generally by type of use, and then listed alphabetically. The land use groups are Accessory and Support Uses; Eating and Drinking Establishment Uses; Education, Religious, and Assembly Uses; Manufacturing and Processing Uses; Office and Medical Uses; Public and Quasi-Public Uses; Recreation Uses; Residential Uses; Retail Uses; Service Uses; Transportation and Storage Uses; and Other Uses.

D. Land uses with specific land use standards shall meet the requirements found in the identified Section in the last column of the table.

E. If two or more land uses are permitted in the same zone, those land uses may coexist on the same site

Table 18.08.030

Commercial, Office, and Industrial Use Table												
P = Use is Permitted by Right C = Use Requires Conditional Use Permit A = Use Requires Administrative Use Permit T = Use Requires Temporary Use Permit Blank = Use is Not Allowed												
		Commercial and Mixed Use Zones					Office and Industrial Zones			Other Zones		
Land Uses		C-N	C-S	C-H	MX-D	MX	O	I-L	I-H	PF	OS	Specific Land Use Standards (See identified Section)
A13	Mobile Food Vendor	A/T	A/T	A/T	A/T	A/T	A/T	A/T	A/T	A/T		Chapter 18.60.120

Chapter 18.60

SPECIFIC LAND USE STANDARDS

Sections:

18.60.120 Mobile Food Vendor.

- A. Mobile Food Vendor(s) are allowed only within zoning districts identified in Chapter 18.08 as administrative uses or temporary uses. The application for a Mobile Food Vendors shall be processed as an Administrative Use Permit as provided in Chapter 18.74 or as a Temporary Use Permit as provided in Chapter 18.76 and issued by the Director of Community and Economic Development. The application for the Mobile Food Vendor shall be accompanied by a filing fee established by the city council. The conditions of this section shall be made a part of the issuance of either the Administrative Use Permit or Temporary Use Permit to operate as a Mobile Food Vendor.
- B. Mobile Food Vendor(s) shall be permitted to operate in all commercial, industrial, and Public Facility zones within the City with valid approval and issuance of applicable permits and payments of required fees, including, but not limited to, Administrative Use Permits, Temporary Use Permits, and Special Event Permits.
- C. General Provisions.
 - 1. Noise and amplified music shall comply with all applicable noise standards.
 - 2. The sale of alcohol and tobacco products shall be prohibited.
 - 3. Free-standing signs, such as A-frame signs and sidewalk signs, shall comply with Chapter 18.56 signs. Signs attached to the Mobile Food Vendor vehicle are exempt from Chapter 18.56.
 - 4. Extension cords and cables shall be of a grounded-type and approved for outdoor use. Extension cords shall not be frayed, worn, or in pedestrian traffic areas unless they are secured. Cables in pedestrian traffic areas must also be encapsulated in cable ramps. All electrical power shall be in locations free from potential water intrusion and not located near gutters or storm drains.
 - 5. A 2A10BC fire extinguisher shall be maintained inside any enclosed mobile food facility in accordance with California Fire Code established by the State Fire Marshal as set forth in the Title 24 of the California Code of Regulations.
 - 6. Any use of water from a rented location must not be permanently attached. All hose bibs shall be considered temporary and have a backflow preventer. Any hoses in pedestrian traffic areas must be secured and encapsulated in a hose ramp.
 - 7. Clean-up shall be by dry method only, such as ‘brooming’ or sweeping. No water hose shall be used for clean-up purposes.
 - 8. Mobile Food Vendors may not operate on city-owned property, including city parks, without prior written authorization from the City.
 - 9. The site upon which a mobile food vendor is located, including but not limited to, pedestrian traffic areas, parking areas, waiting areas, and parking areas, must be paved.
- D. Validity of Administrative Use Permit. Administrative Use Permits issued to Mobile Food Vendors will be valid for one (1) calendar year from the date of approval. Permittees may apply for a new Administrative Use Permit, no sooner than ninety (90) days prior to the expiration of their current Administrative Use Permit.

- E. Validity of Temporary Use Permit. Temporary Use Permits for the operation of Mobile Food Vendors shall only be valid for the duration of an approved event or as otherwise provided for within the Temporary Use Permit.

Chapter 18.96 DEFINITION OF LAND USES

Sections:

18.96.020 Land use definitions.

The following land use definitions apply to this title. The item number in parenthesis at the end of the definition is not a part of the definition, but refers to the line item of that land use in Table 18.08.020 and Table 18.08.030.

“Mobile Food Vendor” means any motorized vehicle, motorized cart, trailer pulled by a motorized vehicle, or any motorized conveyance from which food is peddled or sold for sale. (A13)

Chapter 9.06

VENDING ON PUBLIC PROPERTY

Sections:

- 9.06.01 Definitions.
- 9.06.02 Business license certificate.
- 9.06.03 Health and sanitation requirements.
- 9.06.04 Vendor permit to operate.
- 9.06.05 Operational requirements.
- 9.06.06 Additional rules for sidewalk vendors.
- 9.06.07 Food truck vendors.
- 9.06.08 Additional rules for vending in parks.
- 9.06.09 Supplemental regulations.
- 9.06.10 Violations.

9.06.01 Definitions.

For purposes of this chapter, the following definitions apply:

“Annual permit” means a permit to vend lasting one calendar year unless otherwise provided by this chapter.

“City” means the City of Chowchilla.

“Code” means Chowchilla Municipal Code and all codes incorporated therein by reference.

“Food” shall be as defined in Health and Safety Code Section 113781 or any successor provision.

“Food facility” shall be as defined in Health and Safety Code Section 113789 or any successor provision.

“Food truck vendor” means a vendor selling, offering for sale, or distributing food from a vehicle.

“Hand washing facility” means a facility providing either a basin, container, or outlet with an adequate supply of potable water, soap, and single-use towels, as further defined in Health and Safety Code Section 114359.

“Health Officer” shall be as defined in Health and Safety Code Section 111015.

“Location” means the area within a one-hundred-foot (100') radius of the vendor’s position.

“Merchandise” means commodities or goods that are bought and sold.

“Mobile food facility” shall be as defined in Health and Safety Code Section 113831 or any successor provision.

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“Peddler” means and includes every person not having a regularly established place of business in the City who travels from place to place or has a stand upon any public street, alley, or other place, doorway or any room or building, unenclosed or vacant lot, or parcel of land and who sells or offers for sale any foodstuffs, goods, wares, merchandise, or articles of personal property in their possession.

“Roaming sidewalk vendor” means a sidewalk vendor selling, offering for sale, or distributing food or merchandise on a public sidewalk continuously moving except when making a sale.

“Sidewalk vendor” means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, bicycle or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.

“Single event permit” means a vending permit valid for a specific amount of time not to exceed thirty (30) continuous days.

“Special event” means any outdoor event designated for the exclusive use of the event organizer utilizing public areas, including streets and parking lots temporarily closed by the City Council or Chowchilla Police Department.

“Stationary sidewalk vendor” means a sidewalk vendor selling, offering for sale, or distributing food or merchandise on a public sidewalk in one location as provided by applicable permit.

“Toilet facility” means a fixture maintained with a toilet room for the purpose of defecation or urination or both, as further defined in Health and Safety Code Section 114359.

“Vehicle” means a mobile food facility, catering truck, or other motorized conveyance upon which food or merchandise is sold, offered for sale or distributed.

“Vend” or “vending” means to offer for sale or distribution.

“Vendor” shall include peddler, roaming sidewalk vendor, sidewalk vendor, stationary sidewalk vendor.

“Vendor permit” or “vending permit” or “permit” means the permit issued to vendors pursuant to this chapter.

9.06.02 Business license.

It shall be unlawful to sell, offer for sale, or distribute any food or merchandise on any public sidewalks, pedestrian paths, or parks within the City without first obtaining a business license and paying the applicable business registration fee for each vendor, pursuant to Chapter 5.04 of the Municipal Code.

Notwithstanding those provisions, no business license shall be issued without evidence that the vendor has obtained all permits required by this chapter. The original of the City business license, vendor permit, and health permit, as applicable, shall be displayed conspicuously at all times on the vendor’s vehicle, person, or site.

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9.06.03 Health and sanitation requirements.

Vendors selling or offering food shall obtain a health permit from the Madera County Health Officer, as applicable. The health permit shall be displayed conspicuously at all times on the vendor's vehicle, person, or site. Evidence of a health permit shall be made available to City staff as part of the business license application or renewal.

9.06.04 Vendor permit to operate.

- (a) Permit required. It shall be unlawful to sell, offer for sale, or distribute any food or merchandise on any public sidewalk, pedestrian path, or park within the City without first obtaining a valid City issued vendor permit pursuant to the provisions of this chapter. The vendor's permit shall be displayed conspicuously at all times on the vendor's vehicle, person, or site. Evidence of such permit shall accompany the business license application or renewal application to the City.
- (b) Person and location specific. Vendor permits shall be specific to a person, business and/or location.
- (c) Nontransferable; no vested right. Vendor permits shall be nontransferable. No vendor shall acquire a vested right or property interest from the issuance of a permit, and permits shall at all times be subject to the provisions of this chapter.
- (d) Application and fees. Written application for a vendor permit shall be filed with the Community Development Department and shall be accompanied by a fee as approved by City Council. Applicants are strongly encouraged to apply for permits more than forty-five (45) days before the permit is needed in order to ensure timely processing of the application.

The vendor applicant shall provide the following information on a form approved by the City, along with any required documentation, including, but not limited to:

- (1) Names, addresses, email addresses, and telephone numbers of the vendor applicant and of all persons financially interested in the business;
- (2) A statement of the type of food or merchandise to be sold;
- (3) The location(s) at which the applicant intends to operate;
- (4) Number of vehicles the vendor applicant intends to operate, along with a copy of the current registration of each vehicle;
- (5) Intended day(s) and hours of operation at such location(s);
- (6) The site of the toilet and hand washing facility required by Health and Safety Code Section 114359;
- (7) If the toilet and hand washing facility required by the Health and Safety Code is on private property, a copy of an enforceable contract between the private property owner and the vendor applicant allowing vendor to utilize such facilities on the day(s) and hours of operation;

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- (8) A copy of the health permit required by this chapter, including any applicable commissary letter, as required;
 - (9) Agreement by the applicant to indemnify and hold harmless the City, its officers, officials, volunteers, and employees from any and all damages or injury to persons or property proximately caused by the act or neglect of the applicant or by hazardous or negligent conditions maintained at the applicant's vending location;
 - (10) Evidence of general liability insurance, as applicable, in a form and at levels of coverage acceptable to the City;
 - (11) Previous vending permits issued to the applicant in other cities and the status of those permits;
 - (12) Authority for applicable City staff to conduct any background check necessary for the investigation required by this chapter;
 - (13) Certification that, to his or her knowledge and belief, the information provided is true and correct;
 - (14) Such further information as the City may require.
- (e) Investigation. The Community Development Department shall conduct a review of the application and shall issue a vendor permit within forty-five (45) days of receipt of a complete application, upon finding all of the following:
- (1) An accurate application has been filed;
 - (2) The required application fee has been paid;
 - (3) All applicable provisions of this chapter have been or will be met;
 - (4) The vending will not cause excessive traffic congestion, impede pedestrian or bicycle movement, or violate any applicable Federal or State accessibility laws;
 - (5) The vending will not impede recreational opportunities on City parks, trails, and open spaces;
 - (6) The vending will not change the residential character of residential neighborhoods or have an adverse effect on the safety of the community in any zone district.
- (f) Conditions of approval. The City Administrator and/or his or her designee, may impose conditions of approval on the vendor permit necessary to make findings for approval. The City Administrator and/or his or her designee shall document the need for the conditions.
- (g) Permit term and renewal. Except where a vendor permit is issued for a shorter duration, as set forth in subsection (h) of this section, permits shall be issued on a calendar year basis as follows:
- (1) Initial permits. First-year permits issued after October 1st shall be valid until December 31st of the succeeding year and automatically expire at that time unless sooner

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suspended or revoked. First-year permits issued prior to October 1st shall be valid until December 31st of that year and automatically expire at that time unless sooner suspended or revoked.

(2) Annual renewal. Any vendor permit pursuant to this chapter shall automatically expire, terminate, and be of no further force and effect at 5:00 p.m. on December 31st of each year if not renewed. Permits may be renewed prior to expiration by submitting an application for renewal to the Community Development Department prior to November 1st, accompanied by a renewal fee as approved by the City Council. Applicants for renewal of a first-year permit issued for a period of less than twelve (12) months shall receive pro rata credit towards the renewal fee. The application for renewal shall contain the same information required by subsection (d) of this section, updated to reflect changes in the preceding year.

(h) Single event permits. Single event permits shall only be valid for the duration of the event and shall not exceed thirty (30) consecutive days in duration and shall name the exact dates of validity on the permit. No more than one single event permit shall be issued to a vendor in a calendar year.

(i) Priority of applications. Vendor applications will be processed in the order of receipt of a complete application, as determined by the Community Development Department, accompanied by payment of the required application fee. Specific vending locations requested by more than one vendor will be allocated based upon this order. A list of applicants shall be maintained and at the time of renewal, the next vendor on the list will have priority. For high demand areas, the City Administrator and/or his or her designee may limit the duration of permits to less than one year.

9.06.05 Operational requirements.

All vendors are subject to the conditions set forth below:

(a) No vendor shall locate within one thousand feet (1000') of the grounds of any elementary or secondary school on any school day while school is in session;

(b) No vendor shall locate within five hundred feet (500') of a freeway entrance or exit;

(c) No vendor shall locate within fifty feet (50') of any street or roadway intersection, crosswalk, fire hydrant, signal crossing, or bus stop;

(d) No vendor shall locate their operation in such a way that would restrict the ingress to or egress from the adjoining property;

(e) No vendor shall locate on any public sidewalk or within any public street adjacent to a curb which has been duly designated by the City as a white, yellow, blue or red zone;

(f) No vendor shall locate within two hundred feet (200') of any other vendor operating during the applicable vending hours specified in this chapter;

(g) No vendor may obstruct the flow of pedestrian traffic by reducing the clear space to less than sixty inches (60") of usable sidewalk pursuant to applicable California Building Codes;

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- (h) No vendor shall locate their operation in such a way that would restrict accessibility routes and curb cuts;
- (i) No vehicle shall roll up onto the sidewalk or cause traffic to block and be delayed;
- (j) No driveways, parking lots, or private property can be occupied by a vendor without written permission;
- (k) No vendor shall locate their operation in such a way that would restrict trash enclosures;
- (l) No vendor shall locate their operation in such a way that would restrict required off street parking and parking meters;
- (m) No sidewalk vendor is permitted in residential areas except for roaming sidewalk vendors pursuant to Section 9.06.06;
- (n) No vendor shall conduct business with customers in moving cars;
- (o) Vendors must provide a visible trash receptacle for use by bona fide purchasers;
- (p) The vendor shall not leave any location without first picking up, removing and disposing of all trash or refuse from their operation that remains within one hundred feet (100') of the vendor's position;
- (q) No vending shall occur between the hours of 10:00 p.m. and 7:00 a.m. Specific types of vending may have shorter permitted hours;
- (r) No vendor handling food shall operate more than two hundred feet (200') travel distance of an approved and readily available toilet and hand washing facility to ensure that restroom facilities are available to the vendor permit holder and any of its employees whenever operating for more than a one-hour period;
- (s) No vendor shall vend within one hundred feet (100') of a special event for one hour before or after the reserved event time;
- (t) No sidewalk vendor shall vend in the street;
- (u) Vendors shall not use City utility connections, including electricity and water, without prior written approval;
- (v) Vendors shall not leave items unattended or stored on public property.

9.06.06 Additional rules for sidewalk vendors.

- (a) Roaming sidewalk vendors shall not stop more than ten (10) minutes to vend in one location.
- (b) Vendors are prohibited in all exclusively residential zone districts in the City, except for roaming sidewalk vendors and special event vendors.
- (c) Roaming sidewalk vendors are prohibited from vending in all exclusively residential zone districts between the hours of 6:00 p.m. and 8:00 a.m.

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(d) Sidewalk vending is prohibited along the frontage of any business that has a sidewalk permit from the City to sell food or merchandise on the sidewalk in front of the business.

9.06.07 Food truck vendors.

Food truck vendors are regulated by Chapter 9.07.

9.06.08 Additional rules for vending in parks.

- (a) Vendors shall not vend in parks less than one acre in size to preserve the use and enjoyment of smaller residential and pocket parks.
- (b) Vendors shall be subject to the City's park rules and regulations.
- (c) Stationary sidewalk vending is not allowed at parks that have exclusive vending contracts.
- (d) Vendors shall at all times adhere to the special event restrictions.
- (e) Vendors shall at all times meet the two-hundred-foot (200') separation requirement from other vendors, unless otherwise authorized by City staff.

9.06.09 Supplemental regulations.

The City Administrator and/or his or her designee, is hereby authorized to adopt supplemental rules and regulations, and to develop all related forms and/or other materials, reasonably necessary to implement this chapter, and to make such interpretations of this chapter as they may consider necessary to achieve the purposes of this chapter. Violations of supplemental rules and regulations shall be considered violations of this chapter.

9.06.10 Violations.

(a) Fines and penalties. Violations of this chapter or the conditions in a vendor permit shall be subject to the following fines:

- (1) Vendor without a valid permit:
 - (i) An administrative fine of two hundred fifty and 00/100ths dollars (\$250.00) for a first violation;
 - (ii) An administrative fine of five hundred and 00/100ths dollars (\$500.00) for a second violation within one year of the first violation;
 - (iii) An administrative fine of one thousand and 00/100ths dollars (\$1,000.00) for a third violation within one year of the first violation;
 - (iv) An administrative fine of one thousand and 00/100ths dollars (\$1,000.00) for a fourth and each subsequent violation within one year of the first violation and confiscation of the vehicle, food and merchandise as provided for in subsections (b) and (c) of this section;
 - (v) The administrative fines listed in this subsection may be reduced from two hundred fifty and 00/100ths dollars (\$250.00) to one hundred and 00/100ths dollars (\$100.00), five hundred and 00/100ths dollars (\$500.00) to two hundred and 00/100ths dollars (\$200.00) and one thousand and 00/100ths dollars (\$1,000.00) to five hundred

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and 00/100ths dollars (\$500.00) upon submission of proof of a permit to the City Administrator's office.

(2) Vendor with a valid permit:

(i) An administrative fine of one hundred and 00/100ths dollars (\$100.00) for a first violation;

(ii) An administrative fine of two hundred and 00/100ths dollars (\$200.00) for a second violation within one year of the first violation;

(iii) An administrative fine of five hundred and 00/100ths dollars (\$500.00) for a third violation within one year of the first violation; and

(iv) An administrative fine of five hundred and 00/100ths dollars (\$500.00) for a fourth and each subsequent violation within one year of the first violation and revocation or suspension of permit and/or confiscation of vehicle, food and merchandise, as provided for in subsections (b) and (c) of this section.

(3) Penalties for failing to have a Business license are subject to the penalty provision of Chapter 1.10.

(4) Fines may be issued on a form approved by the City Administrator, and shall include an appeal process as provided for in Chapter 1.10.

(b) Revocation and suspension. The City may suspend for up to thirty (30) days or revoke any permit issued under this chapter when any one or more of the following grounds are found to exist:

(1) Violation of this chapter or provisions of a vendor permit. The City shall not revoke a permit for violations of this chapter or the vendor permit that relate solely to the act of vending until the fourth violation in any three hundred sixty-five (365) day period.

(2) Violation of local, State, or Federal law in connection with vendor activity.

(3) When a vendor's permit was issued under fraudulent circumstances or mistake.

(4) When necessary to protect the public health, safety, or welfare.

(c) Confiscation. In connection with suspension or revocation of a vendor permit, the City may confiscate property used in connection with vending upon a determination that confiscation of the property is necessary to protect the public health, safety, or welfare.

(d) Procedures. The following procedures shall apply for suspensions, revocation, and confiscation:

(1) Prior to revocation or suspension of a permit and/or confiscation of property, the City shall provide written notice to the vendor stating the reasons for the action by personal notice or certified mail.

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- (2) The notice shall provide information on the appeal process and explain that a suspension may lead to a permanent revocation of the permit.
- (3) Unless immediate suspension is necessary to protect the public health, safety, and welfare, prior to taking final action the City Administrator and/or his or her designee shall afford the vendor, and vehicle owner when applicable, an opportunity for an appeal hearing pursuant to the procedures set forth in sections 1.10.080 and 1.10.090. For immediate suspensions, the appeal hearing, if requested, shall be held within ten (10) business days after the filing of the appeal.
- (4) If an appeal is filed, the hearing officer may permanently revoke the permit, reinstate the permit, conditionally reinstate the permit, or modify the suspension, based upon findings related to circumstances described in this section. The Hearing Officer shall also make appropriate findings regarding any confiscation.

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Chapter 9.07 FOOD TRUCK VENDING

9.07.01 Definitions.

For purposes of this Chapter, the following definitions apply:

“Administrative Use Permit” shall mean a permit issued by the City of Chowchilla in accordance with Chapter 18.74.

“City” means the City of Chowchilla.

“Code” means the Chowchilla Municipal Code and all codes incorporated therein by reference.

“Food” shall be as defined in Health and Safety Code Section 113781 or any successor provision.

“Food Facility” shall be as defined in Health and Safety Code Section 113789 or any successor provision.

“Food Truck” means a mobile food facility as defined in Health and Safety Code Section 113831 or any successor provision and any vehicle as defined in Section 670 of the California Vehicle Code, which is equipped and used for retail sales of prepared, prepackaged, or unprepared food or foodstuffs of any kind that parks at one (1) or more locations within the City. A Food Truck shall also include any trailer or wagon equipped and used as described in this definition and pulled by a vehicle.

“Food Truck Permit” or “Permit” means the Administrative Use Permit, Temporary Use Permit, Special Event Permit, or any other required permit issued to a property owner or lessee with authority allowing Food Trucks to operate on private property pursuant to this Chapter.

“Food Truck Vendor” or “Vendor” means an individual or business responsible for or utilizing a Food Truck to sell, offer for sale, or distribute Food.

“Hand washing Facility” means a facility providing either a basin, container, or outlet with an adequate supply of potable water, soap, and single-use towels, as further defined in Health and Safety Code Section 114359.

“Health Officer” shall be as defined in Health and Safety Code Section 111015.

“Special Event” means any outdoor event designated for the exclusive use of the event organizer utilizing public areas, including streets and parking lots temporarily closed by the City Council or Chowchilla Police Department.

“Temporary Use Permit” shall mean a permit issued by the City of Chowchilla in accordance with Chapter 18.76.

“Toilet Facility” means a fixture maintained with a toilet room for the purpose of defecation or urination or both, as further defined in Health and Safety Code Section 114359.

“Vend” or “Vending” means to offer for sale or distribution.

9.07.02 Business License Requirements.

All Food Trucks operating in the City shall obtain a business license pursuant to Chapter 5.04 of the Municipal Code. No business license shall be issued without evidence that the Vendor has obtained all permits and paid all fees as required by this Chapter. The original of the City business license certificate, County health permit, and any additional permit required by this Chapter, shall be displayed conspicuously at all times on the Food Truck.

9.07.03 Mobile Food Vendor Inspection Fee.

All Food Trucks operating in the City shall be required to successfully complete safety and compliance inspections by the City’s Fire and Community Development Departments. The applicable fee amount for inspections under this section shall be provided within the City’s Master Fee Schedule.

9.07.04 Health and Sanitation Requirements.

Vendors shall obtain a health permit from the Madera County Health Officer. The health permit and applicable commissary agreement letter shall be displayed conspicuously at all times on the Vendor’s Vehicle. Evidence of a health permit shall be made available to City staff as part of the business license application or renewal.

9.07.05 Permit to Operate on Private Property.

- (a) Permit required. No Food Truck shall operate on private property without a Food Truck Permit issued to the property owner, lessee, or applicant. A Food Truck Permit shall be either a Temporary Use Permit for a single event or an Administrative Use Permit for all other situations.
- (b) Single event permits. The City may issue a Temporary Use Permit for single events. A single event permit may only be issued for exclusively residentially zoned districts once per year. Other zoned areas may have a maximum of four (4) single event permits issued per year.
- (c) Private Events. Food Truck Permits are not required for Food Trucks operating for a one-day private event or party located either on the site of the event or in the public right-of-way with no retail sale to the general public and no admission charge to the event.
- (d) Special Events. Food Trucks operating within a Special Event or City-sponsored event shall be required to obtain all applicable permits, including, but not limited to a special event permit and to pay all applicable fees.

9.07.06 Operational Requirements.

All Food Truck Vendors are subject to the following conditions:

- (a) No Food Truck shall locate within fifty (50) feet of any street or roadway intersection, crosswalk, fire hydrant, signal crossing, or bus stop.
- (b) No Food Truck shall locate their operation in such a way that would restrict the ingress to or egress from the adjoining property.
- (c) No Vendor shall sell food and beverage items not regulated under the California Retail Food Code (California Health and Safety Code Division 104, Part 7, Section 113700 et. seq., as it currently exists or may be amended).
- (d) No Vendor shall locate their operation in such a way that would restrict accessibility routes and curb cuts.
- (e) No Vehicle shall roll up onto the sidewalk or cause traffic to block and be delayed.
- (f) No driveways, parking lots, or private property can be occupied by a Vendor without written permission from the property owner or lessee.
- (g) No Vendor shall locate their operation in such a way that would restrict trash enclosures.
- (h) No Vendor shall locate their operation in such a way that would restrict required off street parking and parking meters.
- (i) No Vendor shall conduct business with customers in moving cars.
- (j) Vendors must provide a visible trash receptacle for use by customers.
- (k) The Vendor shall regularly pick up, remove and dispose of all trash or refuse from their operation that remains within two hundred (200) feet of the Vendor's position. Regularly means not less than every one (1) hour. For Vendors that operate less than one hour at a location, the Vendor shall pick up, remove and dispose of all trash or refuse prior to leaving the location.
- (l) No Vending shall occur between the hours of 10:00 p.m. and 7:00 a.m. and no overnight parking shall be permitted. Through the Administrative Use Permit or Temporary Use Permit process, the City Administrator and/or their designee may require shorter hours of operation or allow longer hours of operation depending on the type of vending and location.
- (m) No Vendor shall operate more than two hundred (200) feet travel distance of an approved and readily available toilet and hand washing facility to ensure that restroom facilities are available to the Food Truck Permit holder and any of its employees whenever operating for more than a one (1) hour.

- (n) No Vendor shall Vend within three hundred (300) feet of a Special Event for one (1) hour before or after the reserved event time, unless the Vendor is approved by the event's sponsor to participate in the event.
- (o) Vendors shall not use City utility connections, including water and electric, without prior written approval from the City.
- (p) Vendors shall not leave items unattended or stored on public property.
- (q) All Vendors shall comply with the California Vehicle Code and California Health and Safety Code.
- (r) Food Trucks may not operate in an exclusively residentially zoned district in the City, except for private events as provided for in Section 9.07.05(c) or with the issuance of a Temporary Use Permit as provided for in Section 9.07.05(b).
- (s) Vendors shall not operate in an unsafe manner, including but not limited to, impeding on- or off-site vehicle circulation and obstructing the view of pedestrians by motorists.
- (t) Vendors may not sell non-food accessory retail items that exceed ten percent (10%) of the average annual gross receipts of sales from the Food Truck. Non-food accessory retail items may not occupy more than ten percent (10%) of the Food Truck space devoted to preparation and sales. If the business is a new business, the gross receipts shall be calculated by considering the Vendor's estimated annual gross receipts for the first year of operation. "Gross receipts" shall mean the total amount of revenue derived from activities conducted on or within the Food Truck.
- (u) No Vendor shall locate within three hundred (300) feet of any other Vendor operating during the applicable Vending hours specified in this Chapter, except that the Food Truck Permit may allow for smaller groupings of Food Trucks on a single parcel of property.

9.07.07 Additional Rules for Food Truck Vendors on Public Rights-of-Way.

- (a) No Food Truck shall Vend in any one Location on a public street for more than forty-five (45) minutes in any two (2) hour period. "Location" for purposes of this section shall mean a radius of five hundred (500) feet from the original position of the Food Truck.
- (b) No Food Truck shall locate within five hundred (500) feet of a freeway entrance or exit.
- (c) No Food Truck shall locate within any public street adjacent to a curb which has been duly designated by the City as a white, yellow, blue or red zone.
- (d) The Vehicle shall be legally parked and shall not stop, stand, or park in any clear vision triangle or no parking zone.
- (e) Vehicles shall not occupy more than two on-street parking spaces in the public right-of-way in commercial zones.

(f) Vendors shall limit food and beverage service to that side of the Food Truck facing away from the street.

(g) No Vendor shall locate within one thousand (1000') feet of the grounds of any elementary or secondary school on any school day while school is in session; this restriction does not apply to an event at a school facility if the Vendor is in partnership with the organization conducting the event and is located on the site of the event.

(h) Vendors shall indemnify, defend and hold the City, its officials, officers, employees, agents, and volunteers harmless from and against all claims, demands, causes of action, actions, damages, losses, expenses, and other liabilities, (including without limitation reasonable attorney fees and costs of litigation) of every nature arising out of or in connection with operation of the Food Truck on City right-of-way, regardless of fault, unless the injuries or damages are the result of City's sole negligence or willful misconduct.

(i) Vendors shall maintain, at their sole cost and expense, liability insurance in the amount of not less than \$2,000,000 per occurrence, \$4,000,000 aggregate, covering liability associated with operation of the Food Truck. Vendors shall also maintain, at their sole cost and expense, automobile insurance in the amount of not less than \$1,000,000 commercial auto liability coverage. The insurance shall be in full force and effect at any time the vendor is operating in the City. Prior to operations, the Vendor shall deliver or have on file with the City a Certificate of Insurance which includes all required coverages, endorsements, and names the City of Chowchilla as additionally insured and as the certificate holder. The City's Risk Manager shall verify coverages.

9.07.08 Additional Rules for Food Truck Vendors on Private Property.

(a) Vendors shall obtain written authorization to operate the Food Truck from the property owner, or a lessee with authority.

(b) Food Trucks shall operate as follows:

- (1) Within a level parking area, where it can be demonstrated that any off-street parking spaces located in that area are not otherwise reserved, encumbered, or designated to satisfy the off-street parking requirement of a business or activity that is operating at the same time as the Food Truck.
- (2) Operations shall not impede pedestrian or vehicular ingress or egress through the remainder of the parking area or adjacent public right-of-way.
- (3) Vendors shall not use or permit use of parking spaces on the site (e.g., customer queuing, tables, chairs, portable restrooms, signs, and any other ancillary equipment) if doing so will adversely affect the required off-street parking

available for the primary use(s) of the site during peak periods as determined by the City Administrator and/or their designee.

- (4) Vendors shall have adequate lighting to ensure customer safety either on the vehicle or at the location of the vehicle during business hours.

9.07.09 Special Events – City Sponsored Events.

Vendors operating in conjunction with a City-sponsored event, or pursuant to an applicable special events permit, are exempt from the provisions of this chapter and shall meet all requirements as specified within the special event permit or as required by City.

9.07.10 Supplemental Regulations.

The City Administrator and/or their designees, are hereby authorized to adopt supplemental rules and regulations, and to develop all related forms and/or other materials, reasonably necessary to implement this Chapter, and to make such interpretations of this Chapter as they may consider necessary to achieve the purposes of this Chapter. Violations of supplemental rules and regulations shall be considered violations of this Chapter.

9.07.11 Violations.

- (a) Fines and penalties.

Violations of this Chapter or the conditions in a Food Truck Permit shall be subject to the penalty and enforcement provisions of the Municipal Code, including, but not limited to Chapters 1.10, 1.12, 1.16 and 1.20.

- (b) Revocation and suspension.

In addition to the grounds for suspending or revoking a Food Truck Permit, the City may suspend for up to thirty (30) days or revoke any Food Truck Permit issued under this Chapter when any one or more of the following grounds are found to exist:

- (1) Violation of this Chapter or provisions of a Food Truck Permit.
- (2) Violation of local, State, or Federal law in connection with Vendor Activity.
- (3) When a Vendor's permit was issued under fraudulent circumstances or mistake.
- (4) When necessary to protect the public health, safety, or welfare.

- (c) Confiscation. In connection with suspension or revocation of a Food Truck Permit or violations of this Chapter, the City may confiscate property used in connection with Vending upon a determination that confiscation of the property is necessary to protect the public health, safety, or welfare.

(d) Procedures. The following procedures shall apply for suspensions, revocation, and confiscation:

- (1) Prior to revocation or suspension of a Permit and/or confiscation of property, the City shall provide written notice to the Vendor stating the reasons for the action by personal notice or certified mail.
- (2) The notice shall provide information on the appeal process and explain that a suspension may lead to a permanent revocation of the Permit.
- (3) Unless immediate suspension and/or confiscation is necessary to protect the public health, safety, and welfare, prior to taking final action the City shall afford the Vendor, and Vehicle owner when applicable, an opportunity for an appeal hearing pursuant to the procedures set forth in sections 1.10.080 and 1.10.090 of the Code. For immediate suspensions and/or confiscations, the appeal hearing, if requested, shall be held within ten (10) business days after the filing of the appeal.
- (4) If an appeal is filed, the hearing officer may permanently revoke the Permit, reinstate the Permit, conditionally reinstate the Permit, or modify the suspension, based upon findings related to circumstances described in this Section. The hearing officer shall also make appropriate findings regarding any confiscation.

9.07.12 Severability.

If any article, section, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Chapter. The Council hereby declares that it would have adopted this Chapter and adopted each article, section, sentence, clause or phrase thereof, irrespective of the fact that any one or more articles, sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Chapter 18.08 LAND USE TABLES

Section:

18.08.030 Commercial, office, and industrial land use table.

A. The following table identifies which land uses are permitted by right, require a use permit, or are not allowed in the C-N, C-S, C-H, MX-D, MX, O, I-L, I-H, PF, and OS zones.

B. A “P” means that the use is permitted by right in that zone. A “C” means the use requires a conditional use permit in that zone. An “A” means the use requires an administrative use permit in that zone. A “T” means the use requires a temporary use permit in that zone. A blank box means the use is not allowed in that zone.

C. Land uses are grouped generally by type of use, and then listed alphabetically. The land use groups are Accessory and Support Uses; Eating and Drinking Establishment Uses; Education, Religious, and Assembly Uses; Manufacturing and Processing Uses; Office and Medical Uses; Public and Quasi-Public Uses; Recreation Uses; Residential Uses; Retail Uses; Service Uses; Transportation and Storage Uses; and Other Uses.

D. Land uses with specific land use standards shall meet the requirements found in the identified Section in the last column of the table.

E. If two or more land uses are permitted in the same zone, those land uses may coexist on the same site

Table 18.08.030

Commercial, Office, and Industrial Use Table												
P = Use is Permitted by Right C = Use Requires Conditional Use Permit A = Use Requires Administrative Use Permit T = Use Requires Temporary Use Permit Blank = Use is Not Allowed												
		Commercial and Mixed Use Zones					Office and Industrial Zones			Other Zones		
Land Uses		C-N	C-S	C-H	MX-D	MX	O	I-L	I-H	PF	OS	Specific Land Use Standards (See identified Section)
A13	Mobile Food Vendor	A/T	A/T	A/T	A/T	A/T	A/T	A/T	A/T	A/T		Chapter 18.60.120

Chapter 18.60

SPECIFIC LAND USE STANDARDS

Sections:

18.60.120 Mobile Food Vendor.

- A. Mobile Food Vendor(s) are allowed only within zoning districts identified in Chapter 18.08 as administrative uses or temporary uses. The application for a Mobile Food Vendors shall be processed as an Administrative Use Permit as provided in Chapter 18.74 or as a Temporary Use Permit as provided in Chapter 18.76 and issued by the Director of Community and Economic Development. The application for the Mobile Food Vendor shall be accompanied by a filing fee established by the city council. The conditions of this section shall be made a part of the issuance of either the Administrative Use Permit or Temporary Use Permit to operate as a Mobile Food Vendor.
- B. Mobile Food Vendor(s) shall be permitted to operate in all commercial, industrial, and Public Facility zones within the City with valid approval and issuance of applicable permits and payments of required fees, including, but not limited to, Administrative Use Permits, Temporary Use Permits, and Special Event Permits.
- C. General Provisions.
 - 1. Noise and amplified music shall comply with all applicable noise standards.
 - 2. The sale of alcohol and tobacco products shall be prohibited.
 - 3. Free-standing signs, such as A-frame signs and sidewalk signs, shall comply with Chapter 18.56 signs. Signs attached to the Mobile Food Vendor vehicle are exempt from Chapter 18.56.
 - 4. Extension cords and cables shall be of a grounded-type and approved for outdoor use. Extension cords shall not be frayed, worn, or in pedestrian traffic areas unless they are secured. Cables in pedestrian traffic areas must also be encapsulated in cable ramps. All electrical power shall be in locations free from potential water intrusion and not located near gutters or storm drains.
 - 5. A 2A10BC fire extinguisher shall be maintained inside any enclosed mobile food facility in accordance with California Fire Code established by the State Fire Marshal as set forth in the Title 24 of the California Code of Regulations.
 - 6. Any use of water from a rented location must not be permanently attached. All hose bibs shall be considered temporary and have a backflow preventer. Any hoses in pedestrian traffic areas must be secured and encapsulated in a hose ramp.
 - 7. Clean-up shall be by dry method only, such as ‘brooming’ or sweeping. No water hose shall be used for clean-up purposes.
 - 8. Mobile Food Vendors may not operate on city-owned property, including city parks, without prior written authorization from the City.
 - 9. The site upon which a mobile food vendor is located, including but not limited to, pedestrian traffic areas, parking areas, waiting areas, and parking areas, must be paved.
- D. Validity of Administrative Use Permit. Administrative Use Permits issued to Mobile Food Vendors will be valid for one (1) calendar year from the date of approval. Permittees may apply for a new Administrative Use Permit, no sooner than ninety (90) days prior to the expiration of their current Administrative Use Permit.

- E. Validity of Temporary Use Permit. Temporary Use Permits for the operation of Mobile Food Vendors shall only be valid for the duration of an approved event or as otherwise provided for within the Temporary Use Permit.

Chapter 18.96 DEFINITION OF LAND USES

Sections:

18.96.020 Land use definitions.

The following land use definitions apply to this title. The item number in parenthesis at the end of the definition is not a part of the definition, but refers to the line item of that land use in Table 18.08.020 and Table 18.08.030.

“Mobile Food Vendor” means any motorized vehicle, motorized cart, trailer pulled by a motorized vehicle, or any motorized conveyance from which food is peddled or sold for sale. (A13)

Chapter 9.06

VENDING ON PUBLIC PROPERTY

Sections:

- 9.06.01 Definitions.
- 9.06.02 Business license certificate.
- 9.06.03 Health and sanitation requirements.
- 9.06.04 Vendor permit to operate.
- 9.06.05 Operational requirements.
- 9.06.06 Additional rules for sidewalk vendors.
- 9.06.07 Food truck vendors.
- 9.06.08 Additional rules for vending in parks.
- 9.06.09 Supplemental regulations.
- 9.06.10 Violations.

9.06.01 Definitions.

For purposes of this chapter, the following definitions apply:

“Annual permit” means a permit to vend lasting one calendar year unless otherwise provided by this chapter.

“City” means the City of Chowchilla.

“Code” means Chowchilla Municipal Code and all codes incorporated therein by reference.

“Food” shall be as defined in Health and Safety Code Section 113781 or any successor provision.

“Food facility” shall be as defined in Health and Safety Code Section 113789 or any successor provision.

“Food truck vendor” means a vendor selling, offering for sale, or distributing food from a vehicle.

“Hand washing facility” means a facility providing either a basin, container, or outlet with an adequate supply of potable water, soap, and single-use towels, as further defined in Health and Safety Code Section 114359.

“Health Officer” shall be as defined in Health and Safety Code Section 111015.

“Location” means the area within a one-hundred-foot (100') radius of the vendor’s position.

“Merchandise” means commodities or goods that are bought and sold.

“Mobile food facility” shall be as defined in Health and Safety Code Section 113831 or any successor provision.

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“Peddler” means and includes every person not having a regularly established place of business in the City who travels from place to place or has a stand upon any public street, alley, or other place, doorway or any room or building, unenclosed or vacant lot, or parcel of land and who sells or offers for sale any foodstuffs, goods, wares, merchandise, or articles of personal property in their possession.

“Roaming sidewalk vendor” means a sidewalk vendor selling, offering for sale, or distributing food or merchandise on a public sidewalk continuously moving except when making a sale.

“Sidewalk vendor” means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, bicycle or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.

“Single event permit” means a vending permit valid for a specific amount of time not to exceed thirty (30) continuous days.

“Special event” means any outdoor event designated for the exclusive use of the event organizer utilizing public areas, including streets and parking lots temporarily closed by the City Council or Chowchilla Police Department.

“Stationary sidewalk vendor” means a sidewalk vendor selling, offering for sale, or distributing food or merchandise on a public sidewalk in one location as provided by applicable permit.

“Toilet facility” means a fixture maintained with a toilet room for the purpose of defecation or urination or both, as further defined in Health and Safety Code Section 114359.

“Vehicle” means a mobile food facility, catering truck, or other motorized conveyance upon which food or merchandise is sold, offered for sale or distributed.

“Vend” or “vending” means to offer for sale or distribution.

“Vendor” shall include peddler, roaming sidewalk vendor, sidewalk vendor, stationary sidewalk vendor.

“Vendor permit” or “vending permit” or “permit” means the permit issued to vendors pursuant to this chapter.

9.06.02 Business license.

It shall be unlawful to sell, offer for sale, or distribute any food or merchandise on any public sidewalks, pedestrian paths, or parks within the City without first obtaining a business license and paying the applicable business registration fee for each vendor, pursuant to Chapter 5.04 of the Municipal Code.

Notwithstanding those provisions, no business license shall be issued without evidence that the vendor has obtained all permits required by this chapter. The original of the City business license, vendor permit, and health permit, as applicable, shall be displayed conspicuously at all times on the vendor’s vehicle, person, or site.

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9.06.03 Health and sanitation requirements.

Vendors selling or offering food shall obtain a health permit from the Madera County Health Officer, as applicable. The health permit shall be displayed conspicuously at all times on the vendor's vehicle, person, or site. Evidence of a health permit shall be made available to City staff as part of the business license application or renewal.

9.06.04 Vendor permit to operate.

- (a) Permit required. It shall be unlawful to sell, offer for sale, or distribute any food or merchandise on any public sidewalk, pedestrian path, or park within the City without first obtaining a valid City issued vendor permit pursuant to the provisions of this chapter. The vendor's permit shall be displayed conspicuously at all times on the vendor's vehicle, person, or site. Evidence of such permit shall accompany the business license application or renewal application to the City.
- (b) Person and location specific. Vendor permits shall be specific to a person, business and/or location.
- (c) Nontransferable; no vested right. Vendor permits shall be nontransferable. No vendor shall acquire a vested right or property interest from the issuance of a permit, and permits shall at all times be subject to the provisions of this chapter.
- (d) Application and fees. Written application for a vendor permit shall be filed with the Community Development Department and shall be accompanied by a fee as approved by City Council. Applicants are strongly encouraged to apply for permits more than forty-five (45) days before the permit is needed in order to ensure timely processing of the application.

The vendor applicant shall provide the following information on a form approved by the City, along with any required documentation, including, but not limited to:

- (1) Names, addresses, email addresses, and telephone numbers of the vendor applicant and of all persons financially interested in the business;
- (2) A statement of the type of food or merchandise to be sold;
- (3) The location(s) at which the applicant intends to operate;
- (4) Number of vehicles the vendor applicant intends to operate, along with a copy of the current registration of each vehicle;
- (5) Intended day(s) and hours of operation at such location(s);
- (6) The site of the toilet and hand washing facility required by Health and Safety Code Section 114359;
- (7) If the toilet and hand washing facility required by the Health and Safety Code is on private property, a copy of an enforceable contract between the private property owner and the vendor applicant allowing vendor to utilize such facilities on the day(s) and hours of operation;

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- (8) A copy of the health permit required by this chapter, including any applicable commissary letter, as required;
 - (9) Agreement by the applicant to indemnify and hold harmless the City, its officers, officials, volunteers, and employees from any and all damages or injury to persons or property proximately caused by the act or neglect of the applicant or by hazardous or negligent conditions maintained at the applicant's vending location;
 - (10) Evidence of general liability insurance, as applicable, in a form and at levels of coverage acceptable to the City;
 - (11) Previous vending permits issued to the applicant in other cities and the status of those permits;
 - (12) Authority for applicable City staff to conduct any background check necessary for the investigation required by this chapter;
 - (13) Certification that, to his or her knowledge and belief, the information provided is true and correct;
 - (14) Such further information as the City may require.
- (e) Investigation. The Community Development Department shall conduct a review of the application and shall issue a vendor permit within forty-five (45) days of receipt of a complete application, upon finding all of the following:
- (1) An accurate application has been filed;
 - (2) The required application fee has been paid;
 - (3) All applicable provisions of this chapter have been or will be met;
 - (4) The vending will not cause excessive traffic congestion, impede pedestrian or bicycle movement, or violate any applicable Federal or State accessibility laws;
 - (5) The vending will not impede recreational opportunities on City parks, trails, and open spaces;
 - (6) The vending will not change the residential character of residential neighborhoods or have an adverse effect on the safety of the community in any zone district.
- (f) Conditions of approval. The City Administrator and/or his or her designee, may impose conditions of approval on the vendor permit necessary to make findings for approval. The City Administrator and/or his or her designee shall document the need for the conditions.
- (g) Permit term and renewal. Except where a vendor permit is issued for a shorter duration, as set forth in subsection (h) of this section, permits shall be issued on a calendar year basis as follows:
- (1) Initial permits. First-year permits issued after October 1st shall be valid until December 31st of the succeeding year and automatically expire at that time unless sooner

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suspended or revoked. First-year permits issued prior to October 1st shall be valid until December 31st of that year and automatically expire at that time unless sooner suspended or revoked.

(2) Annual renewal. Any vendor permit pursuant to this chapter shall automatically expire, terminate, and be of no further force and effect at 5:00 p.m. on December 31st of each year if not renewed. Permits may be renewed prior to expiration by submitting an application for renewal to the Community Development Department prior to November 1st, accompanied by a renewal fee as approved by the City Council. Applicants for renewal of a first-year permit issued for a period of less than twelve (12) months shall receive pro rata credit towards the renewal fee. The application for renewal shall contain the same information required by subsection (d) of this section, updated to reflect changes in the preceding year.

(h) Single event permits. Single event permits shall only be valid for the duration of the event and shall not exceed thirty (30) consecutive days in duration and shall name the exact dates of validity on the permit. No more than one single event permit shall be issued to a vendor in a calendar year.

(i) Priority of applications. Vendor applications will be processed in the order of receipt of a complete application, as determined by the Community Development Department, accompanied by payment of the required application fee. Specific vending locations requested by more than one vendor will be allocated based upon this order. A list of applicants shall be maintained and at the time of renewal, the next vendor on the list will have priority. For high demand areas, the City Administrator and/or his or her designee may limit the duration of permits to less than one year.

9.06.05 Operational requirements.

All vendors are subject to the conditions set forth below:

(a) No vendor shall locate within one thousand feet (1000') of the grounds of any elementary or secondary school on any school day while school is in session;

(b) No vendor shall locate within five hundred feet (500') of a freeway entrance or exit;

(c) No vendor shall locate within fifty feet (50') of any street or roadway intersection, crosswalk, fire hydrant, signal crossing, or bus stop;

(d) No vendor shall locate their operation in such a way that would restrict the ingress to or egress from the adjoining property;

(e) No vendor shall locate on any public sidewalk or within any public street adjacent to a curb which has been duly designated by the City as a white, yellow, blue or red zone;

(f) No vendor shall locate within two hundred feet (200') of any other vendor operating during the applicable vending hours specified in this chapter;

(g) No vendor may obstruct the flow of pedestrian traffic by reducing the clear space to less than sixty inches (60") of usable sidewalk pursuant to applicable California Building Codes;

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- (h) No vendor shall locate their operation in such a way that would restrict accessibility routes and curb cuts;
- (i) No vehicle shall roll up onto the sidewalk or cause traffic to block and be delayed;
- (j) No driveways, parking lots, or private property can be occupied by a vendor without written permission;
- (k) No vendor shall locate their operation in such a way that would restrict trash enclosures;
- (l) No vendor shall locate their operation in such a way that would restrict required off street parking and parking meters;
- (m) No sidewalk vendor is permitted in residential areas except for roaming sidewalk vendors pursuant to Section 9.06.06;
- (n) No vendor shall conduct business with customers in moving cars;
- (o) Vendors must provide a visible trash receptacle for use by bona fide purchasers;
- (p) The vendor shall not leave any location without first picking up, removing and disposing of all trash or refuse from their operation that remains within one hundred feet (100') of the vendor's position;
- (q) No vending shall occur between the hours of 10:00 p.m. and 7:00 a.m. Specific types of vending may have shorter permitted hours;
- (r) No vendor handling food shall operate more than two hundred feet (200') travel distance of an approved and readily available toilet and hand washing facility to ensure that restroom facilities are available to the vendor permit holder and any of its employees whenever operating for more than a one-hour period;
- (s) No vendor shall vend within one hundred feet (100') of a special event for one hour before or after the reserved event time;
- (t) No sidewalk vendor shall vend in the street;
- (u) Vendors shall not use City utility connections, including electricity and water, without prior written approval;
- (v) Vendors shall not leave items unattended or stored on public property.

9.06.06 Additional rules for sidewalk vendors.

- (a) Roaming sidewalk vendors shall not stop more than ten (10) minutes to vend in one location.
- (b) Vendors are prohibited in all exclusively residential zone districts in the City, except for roaming sidewalk vendors and special event vendors.
- (c) Roaming sidewalk vendors are prohibited from vending in all exclusively residential zone districts between the hours of 6:00 p.m. and 8:00 a.m.

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(d) Sidewalk vending is prohibited along the frontage of any business that has a sidewalk permit from the City to sell food or merchandise on the sidewalk in front of the business.

9.06.07 Food truck vendors.

Food truck vendors are regulated by Chapter 9.07.

9.06.08 Additional rules for vending in parks.

- (a) Vendors shall not vend in parks less than one acre in size to preserve the use and enjoyment of smaller residential and pocket parks.
- (b) Vendors shall be subject to the City's park rules and regulations.
- (c) Stationary sidewalk vending is not allowed at parks that have exclusive vending contracts.
- (d) Vendors shall at all times adhere to the special event restrictions.
- (e) Vendors shall at all times meet the two-hundred-foot (200') separation requirement from other vendors, unless otherwise authorized by City staff.

9.06.09 Supplemental regulations.

The City Administrator and/or his or her designee, is hereby authorized to adopt supplemental rules and regulations, and to develop all related forms and/or other materials, reasonably necessary to implement this chapter, and to make such interpretations of this chapter as they may consider necessary to achieve the purposes of this chapter. Violations of supplemental rules and regulations shall be considered violations of this chapter.

9.06.10 Violations.

(a) Fines and penalties. Violations of this chapter or the conditions in a vendor permit shall be subject to the following fines:

- (1) Vendor without a valid permit:
 - (i) An administrative fine of two hundred fifty and 00/100ths dollars (\$250.00) for a first violation;
 - (ii) An administrative fine of five hundred and 00/100ths dollars (\$500.00) for a second violation within one year of the first violation;
 - (iii) An administrative fine of one thousand and 00/100ths dollars (\$1,000.00) for a third violation within one year of the first violation;
 - (iv) An administrative fine of one thousand and 00/100ths dollars (\$1,000.00) for a fourth and each subsequent violation within one year of the first violation and confiscation of the vehicle, food and merchandise as provided for in subsections (b) and (c) of this section;
 - (v) The administrative fines listed in this subsection may be reduced from two hundred fifty and 00/100ths dollars (\$250.00) to one hundred and 00/100ths dollars (\$100.00), five hundred and 00/100ths dollars (\$500.00) to two hundred and 00/100ths dollars (\$200.00) and one thousand and 00/100ths dollars (\$1,000.00) to five hundred

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and 00/100ths dollars (\$500.00) upon submission of proof of a permit to the City Administrator's office.

(2) Vendor with a valid permit:

(i) An administrative fine of one hundred and 00/100ths dollars (\$100.00) for a first violation;

(ii) An administrative fine of two hundred and 00/100ths dollars (\$200.00) for a second violation within one year of the first violation;

(iii) An administrative fine of five hundred and 00/100ths dollars (\$500.00) for a third violation within one year of the first violation; and

(iv) An administrative fine of five hundred and 00/100ths dollars (\$500.00) for a fourth and each subsequent violation within one year of the first violation and revocation or suspension of permit and/or confiscation of vehicle, food and merchandise, as provided for in subsections (b) and (c) of this section.

(3) Penalties for failing to have a Business license are subject to the penalty provision of Chapter 1.10.

(4) Fines may be issued on a form approved by the City Administrator, and shall include an appeal process as provided for in Chapter 1.10.

(b) Revocation and suspension. The City may suspend for up to thirty (30) days or revoke any permit issued under this chapter when any one or more of the following grounds are found to exist:

(1) Violation of this chapter or provisions of a vendor permit. The City shall not revoke a permit for violations of this chapter or the vendor permit that relate solely to the act of vending until the fourth violation in any three hundred sixty-five (365) day period.

(2) Violation of local, State, or Federal law in connection with vendor activity.

(3) When a vendor's permit was issued under fraudulent circumstances or mistake.

(4) When necessary to protect the public health, safety, or welfare.

(c) Confiscation. In connection with suspension or revocation of a vendor permit, the City may confiscate property used in connection with vending upon a determination that confiscation of the property is necessary to protect the public health, safety, or welfare.

(d) Procedures. The following procedures shall apply for suspensions, revocation, and confiscation:

(1) Prior to revocation or suspension of a permit and/or confiscation of property, the City shall provide written notice to the vendor stating the reasons for the action by personal notice or certified mail.

EXHIBIT B

- (2) The notice shall provide information on the appeal process and explain that a suspension may lead to a permanent revocation of the permit.
- (3) Unless immediate suspension is necessary to protect the public health, safety, and welfare, prior to taking final action the City Administrator and/or his or her designee shall afford the vendor, and vehicle owner when applicable, an opportunity for an appeal hearing pursuant to the procedures set forth in sections 1.10.080 and 1.10.090. For immediate suspensions, the appeal hearing, if requested, shall be held within ten (10) business days after the filing of the appeal.
- (4) If an appeal is filed, the hearing officer may permanently revoke the permit, reinstate the permit, conditionally reinstate the permit, or modify the suspension, based upon findings related to circumstances described in this section. The Hearing Officer shall also make appropriate findings regarding any confiscation.

EXHIBIT C

Chapter 9.07 FOOD TRUCK VENDING

9.07.01 Definitions.

For purposes of this Chapter, the following definitions apply:

“Administrative Use Permit” shall mean a permit issued by the City of Chowchilla in accordance with Chapter 18.74.

“City” means the City of Chowchilla.

“Code” means the Chowchilla Municipal Code and all codes incorporated therein by reference.

“Food” shall be as defined in Health and Safety Code Section 113781 or any successor provision.

“Food Facility” shall be as defined in Health and Safety Code Section 113789 or any successor provision.

“Food Truck” means a mobile food facility as defined in Health and Safety Code Section 113831 or any successor provision and any vehicle as defined in Section 670 of the California Vehicle Code, which is equipped and used for retail sales of prepared, prepackaged, or unprepared food or foodstuffs of any kind that parks at one (1) or more locations within the City. A Food Truck shall also include any trailer or wagon equipped and used as described in this definition and pulled by a vehicle.

“Food Truck Permit” or “Permit” means the Administrative Use Permit, Temporary Use Permit, Special Event Permit, or any other required permit issued to a property owner or lessee with authority allowing Food Trucks to operate on private property pursuant to this Chapter.

“Food Truck Vendor” or “Vendor” means an individual or business responsible for or utilizing a Food Truck to sell, offer for sale, or distribute Food.

“Hand washing Facility” means a facility providing either a basin, container, or outlet with an adequate supply of potable water, soap, and single-use towels, as further defined in Health and Safety Code Section 114359.

“Health Officer” shall be as defined in Health and Safety Code Section 111015.

“Special Event” means any outdoor event designated for the exclusive use of the event organizer utilizing public areas, including streets and parking lots temporarily closed by the City Council or Chowchilla Police Department.

“Temporary Use Permit” shall mean a permit issued by the City of Chowchilla in accordance with Chapter 18.76.

“Toilet Facility” means a fixture maintained with a toilet room for the purpose of defecation or urination or both, as further defined in Health and Safety Code Section 114359.

“Vend” or “Vending” means to offer for sale or distribution.

9.07.02 Business License Requirements.

All Food Trucks operating in the City shall obtain a business license pursuant to Chapter 5.04 of the Municipal Code. No business license shall be issued without evidence that the Vendor has obtained all permits and paid all fees as required by this Chapter. The original of the City business license certificate, County health permit, and any additional permit required by this Chapter, shall be displayed conspicuously at all times on the Food Truck.

9.07.03 Mobile Food Vendor Inspection Fee.

All Food Trucks operating in the City shall be required to successfully complete safety and compliance inspections by the City’s Fire and Community Development Departments. The applicable fee amount for inspections under this section shall be provided within the City’s Master Fee Schedule.

9.07.04 Health and Sanitation Requirements.

Vendors shall obtain a health permit from the Madera County Health Officer. The health permit and applicable commissary agreement letter shall be displayed conspicuously at all times on the Vendor’s Vehicle. Evidence of a health permit shall be made available to City staff as part of the business license application or renewal.

9.07.05 Permit to Operate on Private Property.

- (a) Permit required. No Food Truck shall operate on private property without a Food Truck Permit issued to the property owner, lessee, or applicant. A Food Truck Permit shall be either a Temporary Use Permit for a single event or an Administrative Use Permit for all other situations.
- (b) Single event permits. The City may issue a Temporary Use Permit for single events. A single event permit may only be issued for exclusively residentially zoned districts once per year. Other zoned areas may have a maximum of four (4) single event permits issued per year.
- (c) Private Events. Food Truck Permits are not required for Food Trucks operating for a one-day private event or party located either on the site of the event or in the public right-of-way with no retail sale to the general public and no admission charge to the event.
- (d) Special Events. Food Trucks operating within a Special Event or City-sponsored event shall be required to obtain all applicable permits, including, but not limited to a special event permit and to pay all applicable fees.

9.07.06 Operational Requirements.

All Food Truck Vendors are subject to the following conditions:

- (a) No Food Truck shall locate within fifty (50) feet of any street or roadway intersection, crosswalk, fire hydrant, signal crossing, or bus stop.
- (b) No Food Truck shall locate their operation in such a way that would restrict the ingress to or egress from the adjoining property.
- (c) No Vendor shall sell food and beverage items not regulated under the California Retail Food Code (California Health and Safety Code Division 104, Part 7, Section 113700 et. seq., as it currently exists or may be amended).
- (d) No Vendor shall locate their operation in such a way that would restrict accessibility routes and curb cuts.
- (e) No Vehicle shall roll up onto the sidewalk or cause traffic to block and be delayed.
- (f) No driveways, parking lots, or private property can be occupied by a Vendor without written permission from the property owner or lessee.
- (g) No Vendor shall locate their operation in such a way that would restrict trash enclosures.
- (h) No Vendor shall locate their operation in such a way that would restrict required off street parking and parking meters.
- (i) No Vendor shall conduct business with customers in moving cars.
- (j) Vendors must provide a visible trash receptacle for use by customers.
- (k) The Vendor shall regularly pick up, remove and dispose of all trash or refuse from their operation that remains within two hundred (200) feet of the Vendor's position. Regularly means not less than every one (1) hour. For Vendors that operate less than one hour at a location, the Vendor shall pick up, remove and dispose of all trash or refuse prior to leaving the location.
- (l) No Vending shall occur between the hours of 10:00 p.m. and 7:00 a.m. and no overnight parking shall be permitted. Through the Administrative Use Permit or Temporary Use Permit process, the City Administrator and/or their designee may require shorter hours of operation or allow longer hours of operation depending on the type of vending and location.
- (m) No Vendor shall operate more than two hundred (200) feet travel distance of an approved and readily available toilet and hand washing facility to ensure that restroom facilities are available to the Food Truck Permit holder and any of its employees whenever operating for more than a one (1) hour.

- (n) No Vendor shall Vend within three hundred (300) feet of a Special Event for one (1) hour before or after the reserved event time, unless the Vendor is approved by the event's sponsor to participate in the event.
- (o) Vendors shall not use City utility connections, including water and electric, without prior written approval from the City.
- (p) Vendors shall not leave items unattended or stored on public property.
- (q) All Vendors shall comply with the California Vehicle Code and California Health and Safety Code.
- (r) Food Trucks may not operate in an exclusively residentially zoned district in the City, except for private events as provided for in Section 9.07.05(c) or with the issuance of a Temporary Use Permit as provided for in Section 9.07.05(b).
- (s) Vendors shall not operate in an unsafe manner, including but not limited to, impeding on- or off-site vehicle circulation and obstructing the view of pedestrians by motorists.
- (t) Vendors may not sell non-food accessory retail items that exceed ten percent (10%) of the average annual gross receipts of sales from the Food Truck. Non-food accessory retail items may not occupy more than ten percent (10%) of the Food Truck space devoted to preparation and sales. If the business is a new business, the gross receipts shall be calculated by considering the Vendor's estimated annual gross receipts for the first year of operation. "Gross receipts" shall mean the total amount of revenue derived from activities conducted on or within the Food Truck.
- (u) No Vendor shall locate within three hundred (300) feet of any other Vendor operating during the applicable Vending hours specified in this Chapter, except that the Food Truck Permit may allow for smaller groupings of Food Trucks on a single parcel of property.

9.07.07 Additional Rules for Food Truck Vendors on Public Rights-of-Way.

- (a) No Food Truck shall Vend in any one Location on a public street for more than forty-five (45) minutes in any two (2) hour period. "Location" for purposes of this section shall mean a radius of five hundred (500) feet from the original position of the Food Truck.
- (b) No Food Truck shall locate within five hundred (500) feet of a freeway entrance or exit.
- (c) No Food Truck shall locate within any public street adjacent to a curb which has been duly designated by the City as a white, yellow, blue or red zone.
- (d) The Vehicle shall be legally parked and shall not stop, stand, or park in any clear vision triangle or no parking zone.
- (e) Vehicles shall not occupy more than two on-street parking spaces in the public right-of-way in commercial zones.

- (f) Vendors shall limit food and beverage service to that side of the Food Truck facing away from the street.
- (g) No Vendor shall locate within one thousand (1000') feet of the grounds of any elementary or secondary school on any school day while school is in session; this restriction does not apply to an event at a school facility if the Vendor is in partnership with the organization conducting the event and is located on the site of the event.
- (h) Vendors shall indemnify, defend and hold the City, its officials, officers, employees, agents, and volunteers harmless from and against all claims, demands, causes of action, actions, damages, losses, expenses, and other liabilities, (including without limitation reasonable attorney fees and costs of litigation) of every nature arising out of or in connection with operation of the Food Truck on City right-of-way, regardless of fault, unless the injuries or damages are the result of City's sole negligence or willful misconduct.
- (i) Vendors shall maintain, at their sole cost and expense, liability insurance in the amount of not less than \$2,000,000 per occurrence, \$4,000,000 aggregate, covering liability associated with operation of the Food Truck. Vendors shall also maintain, at their sole cost and expense, automobile insurance in the amount of not less than \$1,000,000 commercial auto liability coverage. The insurance shall be in full force and effect at any time the vendor is operating in the City. Prior to operations, the Vendor shall deliver or have on file with the City a Certificate of Insurance which includes all required coverages, endorsements, and names the City of Chowchilla as additionally insured and as the certificate holder. The City's Risk Manager shall verify coverages.

9.07.08 Additional Rules for Food Truck Vendors on Private Property.

- (a) Vendors shall obtain written authorization to operate the Food Truck from the property owner, or a lessee with authority.
- (b) Food Trucks shall operate as follows:
 - (1) Within a level parking area, where it can be demonstrated that any off-street parking spaces located in that area are not otherwise reserved, encumbered, or designated to satisfy the off-street parking requirement of a business or activity that is operating at the same time as the Food Truck.
 - (2) Operations shall not impede pedestrian or vehicular ingress or egress through the remainder of the parking area or adjacent public right-of-way.
 - (3) Vendors shall not use or permit use of parking spaces on the site (e.g., customer queuing, tables, chairs, portable restrooms, signs, and any other ancillary equipment) if doing so will adversely affect the required off-street parking

available for the primary use(s) of the site during peak periods as determined by the City Administrator and/or their designee.

- (4) Vendors shall have adequate lighting to ensure customer safety either on the vehicle or at the location of the vehicle during business hours.

9.07.09 Special Events – City Sponsored Events.

Vendors operating in conjunction with a City-sponsored event, or pursuant to an applicable special events permit, are exempt from the provisions of this chapter and shall meet all requirements as specified within the special event permit or as required by City.

9.07.10 Supplemental Regulations.

The City Administrator and/or their designees, are hereby authorized to adopt supplemental rules and regulations, and to develop all related forms and/or other materials, reasonably necessary to implement this Chapter, and to make such interpretations of this Chapter as they may consider necessary to achieve the purposes of this Chapter. Violations of supplemental rules and regulations shall be considered violations of this Chapter.

9.07.11 Violations.

- (a) Fines and penalties.

Violations of this Chapter or the conditions in a Food Truck Permit shall be subject to the penalty and enforcement provisions of the Municipal Code, including, but not limited to Chapters 1.10, 1.12, 1.16 and 1.20.

- (b) Revocation and suspension.

In addition to the grounds for suspending or revoking a Food Truck Permit, the City may suspend for up to thirty (30) days or revoke any Food Truck Permit issued under this Chapter when any one or more of the following grounds are found to exist:

- (1) Violation of this Chapter or provisions of a Food Truck Permit.
- (2) Violation of local, State, or Federal law in connection with Vendor Activity.
- (3) When a Vendor's permit was issued under fraudulent circumstances or mistake.
- (4) When necessary to protect the public health, safety, or welfare.

- (c) Confiscation. In connection with suspension or revocation of a Food Truck Permit or violations of this Chapter, the City may confiscate property used in connection with Vending upon a determination that confiscation of the property is necessary to protect the public health, safety, or welfare.

(d) Procedures. The following procedures shall apply for suspensions, revocation, and confiscation:

- (1) Prior to revocation or suspension of a Permit and/or confiscation of property, the City shall provide written notice to the Vendor stating the reasons for the action by personal notice or certified mail.
- (2) The notice shall provide information on the appeal process and explain that a suspension may lead to a permanent revocation of the Permit.
- (3) Unless immediate suspension and/or confiscation is necessary to protect the public health, safety, and welfare, prior to taking final action the City shall afford the Vendor, and Vehicle owner when applicable, an opportunity for an appeal hearing pursuant to the procedures set forth in sections 1.10.080 and 1.10.090 of the Code. For immediate suspensions and/or confiscations, the appeal hearing, if requested, shall be held within ten (10) business days after the filing of the appeal.
- (4) If an appeal is filed, the hearing officer may permanently revoke the Permit, reinstate the Permit, conditionally reinstate the Permit, or modify the suspension, based upon findings related to circumstances described in this Section. The hearing officer shall also make appropriate findings regarding any confiscation.

9.07.12 Severability.

If any article, section, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Chapter. The Council hereby declares that it would have adopted this Chapter and adopted each article, section, sentence, clause or phrase thereof, irrespective of the fact that any one or more articles, sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.