

ORDINANCE NO. 654 N.S.  
AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES AMENDING THE  
MUNICIPAL CODE REGARDING PUSHCARTS  
(CODE AMENDMENT 92012)

WHEREAS, The existing Municipal Code does not provide regulations and development standards for Pushcarts; and

WHEREAS, Pushcarts have the potential to contribute toward the economic vitality of a community by offering color, variety, and convenience to the consumer, complementing the operation of businesses that are in storefront locations; and

WHEREAS, The City has initiated an amendment to the Municipal Code to provide for and regulate Pushcarts in a manner that will protect the public safety and enhance community appearance; and

WHEREAS, public hearings were conducted by the Planning Commission on January 11 and 25, 1993 and by the City Council on February 16, March 2, and April 6, 1993, to consider facts as presented in the staff report and to accept public testimony regarding this proposed code amendment; and

WHEREAS, the proposed Code Amendment has been determined to be Categorically Exempt under the California Environmental Quality Act; and

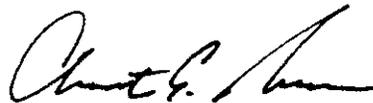
NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of El Paso de Robles, California, that Title II be amended to add Chapter 11.25 of the Municipal Code in the manner contained in the attached "Exhibit A".

PASSED AND ADOPTED, This 20th day of April, 1993, by the following roll call vote:

AYES: Heggarty, Macklin, Martin, Picanco, Iversen

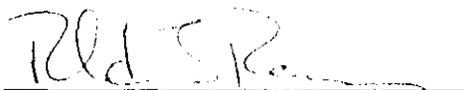
NOES: None

ABSENT: None



MAYOR CHRISTIAN E. IVERSEN

ATTEST:



RICHARD J. RAMIREZ, CITY CLERK

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EXHIBIT "A"

CHAPTER 11.25 PUSHCARTS

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Article I. Purpose.

Section 11.25.010. Purpose

The City Council finds and declares as follows:

- (a) The operation of pushcarts as defined in this chapter on Streets and Sidewalks in the City of El Paso de Robles serves the general welfare, if such operation is properly regulated by offering color, variety and convenience in shopping, in a manner designed to complement operation of businesses with a storefront location.
- (b) Without proper regulation, the operation of pushcarts causes problems of traffic, safety, health, unsightliness, and unfair competition.
- (c) It is therefore necessary to regulate pushcarts in such a manner as to obtain their benefits for the City while at the same time minimizing problems.
- (d) These provisions apply only to use of the Public Way; location and/or operation of pushcarts on provide property would need to be

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provided for in the Zoning Code before the City could consider applications for pushcarts on private property.

## Article II. Definitions.

### Section 11.25.020. Approved Location

An "approved location" is a specific site or area of the City, on a public way, that has been approved as a location of and use for a pushcart pursuant to this chapter.

### Section 11.25.030. Food Preparation

"Food preparation: is the cooking or processing of food. It does not include assembling precooked or prepared foods or adding condiments.

### Section 11.25.040. Permittee

A "permittee" is any natural person, partnership, corporation, firm, or association holding a valid approved location permit hereunder. For the purposes of this chapter, the act or omission of an agent or employee of any permittee is for all civil purposes the act or omission of the permittee.

### Section 11.25.050. Person

Any natural person, firm, partnership, association, corporation, or association.

### Section 11.25.060. Public Way

A "public way" is all that area dedicated to public use, and shall include, but not be limited to, roadways, parkway strips, alleys, and sidewalks.

### Section 11.25.070. Pushcart

(a) A "pushcart" is any non-motorized vehicle, wagon or conveyance or structure on wheels not firmly fixed to a permanent foundation, and not designed to be entered into or ridden on.

(b) A pushcart from which food is served shall meet the definitions and requirements of applicable Health and Safety Codes.

## Article III. Approval of Location Permits

### Section 11.25.080. Permit required

No person shall operate a pushcart on a public way within the City without an approved location permit as provided in this chapter. Such permit shall be in addition to any business license required by the City.

### Section 11.25.090. Application process

An application for an approved location permit shall be made to the Community Development Director, and shall contain the information requested by the Community Development Director as necessary to fulfill the purposes of this chapter.

### Section 11.25.100. Considerations in review of applications

Applications shall be reviewed by the City's Development Review Committee (DRC) in the light of all the facts relevant to the purposes of this chapter, including but not limited to the following:

(a) Compliance with the specific requirements of this chapter.

(b) The goals of the General Plan and any applicable Specific Plans.

(c) Automobile and pedestrian safety and minimum interference with parking.

(d) Avoidance of unfair competition with merchants in fixed locations.

(e) Diversity of product (based on a limitation of the number of pushcarts approved for sale of the same type(s) of merchandise except in conjunction with a City Council approved special event).

(f) Aesthetics, including pushcart design and operator attire.

(g) Recommendations by the Paso Robles Main Street Program Board of Directors.

(h) Written comments from a property or business owner directly adjacent to the proposed pushcart location site (a written protest from the owner of a fixed business location shall constitute adequate grounds for denial of a permit for a pushcart to be located in front of that business location).

**Section 11.25.110. Notice of filing of application**

Within fifteen (15) days after an application has been filed, the Community Development Director shall cause to be published a notice of said filing pursuant to Section 21.23A.0404 B. (Informal Hearings) of the Zoning Code, and also post a copy of such notice in at least two conspicuous places close to the proposed location. Additionally, written notice shall be provided to the Manager of the Paso Robles Main Street Program, requesting a written recommendation from the Paso Robles Main Street Board.

**Section 11.25.120. Holding period for competing applications**

In order that the limited number of pushcart locations may be used by those pushcarts most compatible with the goals of this chapter, it is the intent of this chapter to promote competition for new applications for approved locations. No new application shall therefore be deemed complete under Government Code Section 65943 until at least thirty (30) days after the publication of the notice called for in this chapter. If no other applications are filed for the same location within thirty (30) days of said publication, no further notice need be given. No competing application for a given location will be accepted more than thirty (30) days after the publication of notice hereunder.

**Section 11.25.130. Competing applications for unoccupied location**

If more than one new application is filed for the same location, the Community Development Director shall, if any pushcart is to be allowed in such location, approve the application which the Director determines to be most compatible with the goals and criteria of this chapter. If applications are deemed to be equally compatible, selection shall be made by lottery.

**Section 11.25.140. Revocation**

An approved location permit may be revoked at any time upon a written determination by the Community Development Director that the permit is being utilized in a manner contrary to law, the goals of this chapter, development and/or operational standards established by City Council resolution, or the general welfare of

the City. Prior to such revocation, the Director shall give the permittee written notice by first class mail of his intent to revoke, and shall hold an informal hearing allowing the permittee to present arguments against revocation.

**Section 11.25.150. Appeal**

Any interested party may appeal any decision of the Community Development Director or Development Review Committee (DRC) to the Planning Commission by filing a written appeal within ten (10) days after the mailing of notice of the Director's decision to the last known address of the permittee, and upon payment of the fee specified by City Council resolution. In considering the appeal, the Council may affirm, revoke, or modify the Director's decision in whole or in part, and consider any other matters it deems pertinent.

**Article IV. General Pushcart Regulations**

**Section 11.25.160. Development and Operations Standards**

The City Council may, by City Council Resolution, establish development and/or operations standards for the regulation of pushcarts within the City of Paso Robles.

**Section 11.25.170. No sales to persons in vehicles**

No permittee shall sell any merchandise to any person who is in a motor vehicle at the time of sale.

**Section 11.25.180. Compliance with other laws**

Every permittee shall at all times have a valid business license. Every permittee shall also comply with applicable California Health and Safety Code sections.

**Section 11.25.190. Transfer prohibited without new application approval**

Permits issued under this chapter cover only the permittee to whom they are issued shall not be sold, assigned or transferred without the new applicant first receiving approval and a pushcart permit pursuant to this Chapter.

**Section 11.25.200. Equipment other than pushcarts prohibited**

No permittee shall employ or have any moveable or permanent stands, tables, chairs, or devices other than the permitted pushcart and one chair for the permittee situated at any approved location.

**Section 11.25.210. Business License Fee; Point of Sale**

Business License Fees for Pushcarts operated by person with a fixed business location within the City are to be included within the fee paid for the fixed location. Business license fees for pushcarts operated by a person who does not have a business with a fixed location within the City shall pay a business license fee for a peddler as established by the City Council. Pushcart operators shall have a State resale number with a Paso Robles address, and the City of Paso Robles shall be registered as "point of sale" for all sales occurring from pushcarts operating within the City of Paso Robles.

**Section 11.25.220. Indemnity agreement for use of Public Way**

As a condition to receiving his permit, every permittee shall execute an agreement holding the City and its employees and agents

harmless from any liability arising from the use of the permit and/or operation of the pushcart.

**Section 11.25.230. Insurance required for use of Public Way**

Every permittee, at his sole cost and expense, and during the entire term of his permit or any renewal thereof, shall obtain and maintain all of the following minimum insurance requirements for pushcarts located on a public way:

(a) Comprehensive general liability insurance with a minimum of five hundred thousand dollars (\$500,000.) combined single limit for bodily injury and property damage, including at least the following coverages:

- (1) Premises operation
- (2) Vendor's liability
- (3) Products liability

(b) Comprehensive automobile coverage for any and all motor vehicles used in conduct of the business covered by the permit, with a minimum limit of five hundred thousand dollars (\$500,000.) combined single limit, for bodily injury and property damage. This coverage shall apply to all loaned, leased, hired and nonowned motor vehicles used in the business.

(c) A workers' compensation policy, for any and all employees of the permittee, including the following coverages:

(1) The statutory limit of coverage (under coverage A) for worker's compensation;

(2) One hundred thousand dollars (\$100,000.) liability (for coverage B), employer's liability;

(d) All policies shall be issued by a company licensed to do business in the State of California and subject to the jurisdiction of the State Insurance Commissioner and contain the following endorsements:

(1) "The City of El Paso de Robles, its employees, officers, agents, contractors, and invitees, are hereby added as additional insureds."

(2) "This policy shall be considered primary insurance as respects any other valid and collectible insurance the City may possess, including any self-insured retention the City may have, and any other insurance the City does possess shall be considered excess insurance only."

(3) "This insurance shall act for each insured and additionally insured as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company."

(4) "Thirty (30) days' written notice of cancellation shall be given to the City of El Paso de Robles, in the event of cancellation and/or restriction of any nature in the coverage. Such notice shall be sent to: City Clerk, City of Paso Robles, P. O. Box 307, Paso Robles, CA 93447 (except that only endorsement (4) need be included in the workers' compensation and employers' liability policy)."

(e) Proof of the foregoing coverage shall be in the form of properly issued certificates of insurance with all copies of all required endorsements attached thereto, evidencing all required coverages. Evidence of insurance coverage shall be submitted to the City Clerk, City of Paso Robles, P. O. Box 307, Paso Robles, CA 93447.

**Article VI. Enforcement****Section 11.25.240. Violation: Public Nuisance**

In addition to being a misdemeanor, the operation of any pushcart contrary to the terms of this chapter is hereby declared to be a public nuisance, and shall be enforced by the City of El Paso de Robles.

**Section 11.25.250. Severability**

If any part or clause of this chapter or the application thereof to any person is held to be invalid, such invalidity shall not affect the other provisions or applications which can be given effect without the invalid parts, and to this end the provisions of this chapter are declared to be severable.

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