

## Chapter 5.38

### PEDESTRIAN FOOD VENDORS

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#### **Section 5.38.010 Purpose.**

The purpose of this chapter is to protect the public safety and welfare against the problems created by the street vending of food and other items from pushcarts, baskets, lunch wagons, eating carts, and other non-motorized food carts within the City of Riverside. These street-vending activities can pose special dangers to pedestrians and impact vehicular traffic and movement on the public rights-of-way.

The City Council finds that the regulation of the vending activities specified within this chapter is necessary to prevent significant hazards to health, safety, and welfare of its residents and to prevent potential automobile accidents on the public rights-of-way and streets which could result in serious and fatal bodily harm to its residents. The City Council further finds that regulation of street vending is necessary because congestion on the public rights-of-way may impede the ingress and egress of emergency and public safety vehicles by creating physical obstacles to emergency response and administration of aid to those in need of immediate medical attention and to victims of criminal activity. (Ord. 7129 § 1, 2011; Ord. 5648 § 1, 1988; Ord. 5618 § 1, 1988)

#### **Section 5.38.015 Definitions.**

For the purposes of this chapter, the following terms have the following respective meanings:

"Pushcart" means any wagon, cart or similar wheeled container, not a "vehicle" as defined in the Vehicle Code of the State of California, from which food or beverage is offered for sale to the public.

"Permit officer" means the Finance Director of the City of Riverside or his or her designated representative.

"Downtown business district" means that area of the City of Riverside bounded on the west by Brockton Avenue, on the east by Lime Street, on the north by Third Street and on the south by Fourteenth Street, from the centerline of each street. (Ord. 7129 § 2, 2011; Ord. 5648

§ 1, 1988; Ord. 5618 § 1, 1988)

**Section 5.38.020 General prohibitions.**

A. No person shall sell or offer for sale any food or beverage from any portable box, stand, bag, bucket or similar container, on any public street, including parkways or sidewalks, within the City.

B. No person shall sell or offer for sale any food or beverage from any pushcart on any public street, including parkways or sidewalks, within the City, except as provided for in this chapter or otherwise permitted in the Riverside Municipal Code.

C. No person shall employ, direct or otherwise cause any other person to sell or offer for sale any food or beverage in violation of Subsection A or B of this section or any other regulation of this chapter. (Ord. 6656 § 1, 2003; Ord. 5618 § 1, 1988)

**Section 5.38.030 Permit requirement.**

No person shall sell or offer for sale any food or beverage from a pushcart, nor employ, direct or otherwise cause any other person to do so, without having first obtained a pedestrian food vendor's permit for the pushcart from the permit officer. (Ord. 5648 § 2, 1988; Ord. 5618 § 1, 1988)

**Section 5.38.040 Permit application.**

A. Every applicant for a pedestrian food vendor's permit shall file with the permit officer a written application on a form provided by the permit officer which shall contain the following:

1. The name, address, telephone number and social security number of the applicant and of each person, if any, to be employed or retained by the applicant to sell food or beverages from pushcarts.

2. The number of pushcarts to be operated by the applicant, either directly or through employees or subcontractors, and the design of each pushcart, including signage.

3. The character, location, hours and routing of pushcart operations.

4. Such other information as the permit officer deems appropriate.

B. Each application shall be accompanied by payment of a non-refundable fee in an amount established by resolution of the City Council to cover costs of administering this section.

C. Prior to issuance of a pedestrian food vendor's permit, the applicant shall show proof to the permit officer that he has obtained the business license required by Chapter 5.04 of this code. (Ord. 5618 § 1, 1988)

**Section 5.38.050 Indemnity agreement.**

As a condition to receiving a pedestrian food vendor's 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. (Ord. 5618 § 1, 1988)

**Section 5.38.060 Insurance.**

Every permittee, at his sole cost and expense, and during the term of his permit or any renewal thereof, shall obtain and maintain liability insurance. Prior to the issuance of any permit, the applicant shall file and maintain with the permit officer or his designee a valid and current policy or sufficient certificate or certificates evidencing the policy or policies of liability insurance, covering all operations of the applicant and his agents, and employees. The policy or policies shall contain an endorsement naming the City as additional insured, shall provide that the City will be given thirty days' written notice prior to cancellation or material change, and shall be in such minimum limits as set by resolution of the City Council. (Ord. 5618 § 1, 1988)

**Section 5.38.070 Permit issuance.**

The permit officer shall issue the permit if the requirements of Sections 5.38.040, 5.38.050, 5.38.060, and other pertinent sections are complied with, and the permit officer is reasonably satisfied that the operations of the applicant will conform to the regulations set forth in Sections 5.38.115 and 5.38.120; otherwise the permit officer shall deny the permit. One written permit shall be issued for each pushcart to be operated by the applicant, either directly or through employees or subcontractors. Such written permit shall be in a form approved by the permit officer. (Ord. 6656 § 2, 2003; Ord. 5618 § 1, 1988)

**Section 5.38.080 Transfer prohibited.**

Permits issued under this chapter shall not be sold, assigned or transferred, and shall cover only the named permittee and pushcart to whom they are issued. (Ord. 5648 § 3, 1988; Ord. 5618 § 1, 1988)

**Section 5.38.090 Permit term.**

Each permit issued pursuant to this chapter shall be for a term of one year, upon the expiration of which term the permittee may renew the permit for additional one year terms by submitting new applications in conformance with Section 5.38.040, together with such permit renewal fee as may be established by resolution of the City Council. (Ord. 5618 § 1, 1988)

**Section 5.38.100 Permit revocation.**

- A. The permit officer may revoke any permit or permits for any of the following reasons:
1. Falsehood of any information supplied by the permittee upon which issuance of the permit was based;
  2. Failure of the permittee to promptly notify the permit officer of any change occurring subsequent to the issuance of the permit in the information supplied by the permittee upon which issuance of the permit was based;
  3. Failure of the permittee, or of any employees or subcontractors of the permittee, to comply with the regulations set forth in this chapter;
  4. Violation by the permittee, or any employee or subcontractor of the permittee, of any State, County or municipal law in the course of conducting food vending operations pursuant to the permit.
- B. No person whose permit is revoked shall be eligible to apply for a new permit for a period of one year following such revocation. (Ord. 5648 § 4, 1988; Ord. 5618 § 1, 1988)

**Section 5.38.110 Permit appeal.**

Any person whose application for a permit is denied or whose permit is suspended or revoked by the permit officer may appeal such decision to the City Manager by filing a written notice of appeal in the City Manager's Office within ten days after receipt of the notice of denial, suspension or revocation. The City Manager shall review and determine the appeal and the decision of the City Manager shall be final. (Ord. 5618 § 1, 1988)

**Section 5.38.115 Pushcart location regulations.**

- A. Within the downtown business district, no pushcart shall be located within one hundred fifty feet of a business selling food for on-site consumption.
- B. Outside of the downtown business district, no pushcart shall be located within three hundred feet of a business selling food for on-site consumption.
- C. No pushcart shall be located in a fixed location on any residential street, including parkways or sidewalks. Sales may be made on a residential streets from pushcarts that are

continually moved from place to place and stopped only for the period of time, not to exceed ten minutes at any one place, necessary to make bona fide sales to purchasers, subject to the provisions of this code.

D. No pushcart shall be located, for purposes of sales, on any public street that is a major arterial as shown in the transportation element of the general plan.

E. No pushcart shall be located in any location that creates an obstruction to the normal flow of vehicular or pedestrian traffic or to the access to public streets and sidewalks, or that creates a hazard to life or property.

F. No pushcart shall be located in any location that obstructs traffic signals or regulatory signs.

G. No pushcart shall be located within 15 feet of any intersections, driveway or building entrance, or in any space designed for vehicular parking.

H. No pushcart shall be located within 15 feet of any fire hydrant or fire escape, or within 50 feet of any vehicle entrance of any fire station, police department, hospital, or any other structure involved in health and safety emergency matters.

I. No pushcart shall be located within 15 feet of any loading zone, bus stop, or parking space or access ramp designed for persons with disabilities.

J. No pushcart shall be located within 1000 feet of a public or private school.

K. No pushcart shall be located within 1000 feet of a park.

L. No pushcart shall be located in any public park in violation of Section 9.08.010.

M. No pushcart shall be located against, in front of, or within 10 feet of display windows of fixed location businesses. (Ord. 7129 § 3, 2011; Ord 6656 § 3, 2003)

#### **Section 5.38.120 Other pushcart regulations.**

A. Each pushcart shall have affixed to it in plain view the permit required by this chapter and the permit required by Chapter 5.04 of this code.

B. Permittees, owners, or users of pushcarts shall not operate his or her business in any way as to cause a public or private nuisance.

C. The maximum dimensions of any pushcart shall be six feet in length and four feet in width.

D. The only signs used in conjunction with a pushcart shall be signs affixed to or painted on the pushcart or its canopy.

E. A refuse container of at least four cubic feet capacity shall be provided near the pushcart.

F. No loudspeakers, public address system, bells, chimes or other sound making devices shall be affixed to or used in conjunction with a pushcart.

G. No artificial lighting for or on any pushcart is permitted.

H. No sale of any food or beverage to any person who is in a motor vehicle at the time of sale.

I. There shall be no more than one table, measuring no more than sixteen square feet, affixed to, adjacent, or near the pushcart. The table may only be used for displaying food or beverages for sale, condiments, and napkins.

J. There shall be no more than one ice chest or comparable container affixed to, adjacent, or near the pushcart for purposes of offering food or beverages for sale.

K. No benches, chairs, or tables shall be affixed to, adjacent, or near the pushcart for purposes of supplying customers a place to eat or drink.

L. Each pushcart may have one awning or umbrella over the cart. Each pushcart may have no more than one additional awning or umbrella affixed to, adjacent, or near the pushcart.

M. Permittees, owners, and users of pushcarts are responsible for ensuring that the area immediately surrounding the pushcart is kept clean and free of trash and debris associated with the operation.

N. No pushcart or appurtenance shall be unattended at any time or stored, parked or left in a public space overnight. (Ord. 6656 § 4, 2003; 5618 § 1, 1988)

**Section 5.38.130 Impoundment, abandonment, and disposal.**

In addition to any criminal, civil, or administrative action taken pursuant to Chapter 1.17, any officer authorized to enforce the Riverside Municipal Code may impound pushcarts used in violation of this Chapter, including any perishable or non-perishable foods therein. The owner of the pushcart may request an impoundment hearing before a hearing officer appointed by the City Manager or his/her designee. If perishable food items are seized, the enforcement officer may dispose of the perishable items immediately. By the end of the next business day following impoundment, the owner of the cart will be contacted at the telephone number given to the enforcement officer at the time of the citation or arrest, and the pushcart and non-perishable items will be released to the owner upon proper proof of ownership, presentation of a business tax certificate, and the payment of all towing and administrative costs incurred as a result of the violation.

Any unclaimed items will be considered abandoned and forfeited to the City ninety (90) days after the City calls the owner to retrieve the impounded items, and the City may destroy or otherwise dispose of the impounded items pursuant to law. (Ord. 7129 § 4, 2011; Ord. 5618 § 1, 1988)

**Section 5.38.140 Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the chapter. The City Council hereby declares that it would have passed this chapter and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more other section, subsections, clauses or phrases may be declared invalid or unconstitutional. (Ord. 5618 § 1, 1988)