TOWN OF LOS GATOS **APPLICATION FOR OPERATION OF PUSHCART** (Chapter 14, Article VII of the Town Code)	**FEES: $448.02** PLPERMIT: $393.00 PLTRACK: 15.72 PLANAP: 39.30 Total: $448.02

Applicant Name: _____

DBA: _____

Mailing Address: _____

_____

Business Phone: _____

Expiration Date: _____

Requested Location for Pushcart (Ordinance Section 14.70.160): _____

_____

_____

Evidence of Insurance (Ordinance Section 14.70.060): _____

_____

_____

License for Sanitary Facilities (Ordinance Section 14.70.040): _____

_____

_____

Applicant Signature: _____ Date: _____

Instructions: This form should be competed and returned to the Planning Department. A copy of Chapter 14, Article VII of the Town Code is attached for your information. This application will not be deemed complete until evidence of insurance, a license for sanitary facilities, and an indemnity agreement are submitted.

Please note: The information contained in this application is considered part of the public record. Therefore, it will appear in both the public record file for the site address, which is available upon request, and on the permitting system on the official Town of Los Gatos website at www.losgatosca.gov.

CHAPTER 14 ARTICLE VII OF THE TOWN CODE

PUSHCARTS

DIVISION 1. GENERALLY

Sec. 14.70.010. Purpose.

The Council finds and declares as follows:

(1) The operation of pushcarts on public streets in the Town serves the general welfare, if such operation is properly regulated by offering color, variety and convenience in shopping.

(2) Without proper regulation, the operation of pushcarts causes problems of traffic, safety, health, unsightliness, and unfair competition.

(3) It is therefore necessary to regulate pushcarts in such a manner as to obtain their benefits for the Town while at the same time minimizing problems.

Sec. 14.70.015. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approved location. A site approved for location of a pushcart pursuant to this article.

Food preparation. The cooking or processing of food. It does not include assembling precooked or prepared foods or adding condiments.

Permittee. Any person holding a valid approved location permit under this article. For purposes of this article, the act or omission of an agent or employee of any permittee is for all civil purposes the act or omission of the permittee.

Public way. All that area dedicated to public use, and shall include, but not be limited to, roadways, parkway strips, alleys, and sidewalks.

Pushcart. Any nonmotorized vehicle, truck, trailer, cart, wagon, dray, conveyance or structure on wheels not firmly fixed to a permanent foundation which is utilized in connection with peddling. A pushcart from which food is served shall meet the definition of a vehicle for purposes of Health and Safety Code chapter 11, article 4.

Sec. 14.70.020. Noise.

No permittee shall use, play or employ any sound, outcry, amplifier, loudspeaker, radio or any other instrument or device for the production of sound in connection with the promotion of a pushcart.

Sec. 14.70.025. 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.

Sec. 14.70.030. Food preparation on street prohibited.

Only ready-to-eat food is permitted. Food preparation on the street is prohibited.

Sec. 14.70.035. Compliance with other laws.

Every permittee shall at all times have a valid business license and peddler's license. If food is being sold, a permit is also required from the County Health Department. Every permittee shall also comply with sections 28640 et seq. of the California Health and Safety Code.

Sec. 14.70.040. License for sanitary facilities.

Every permittee shall be required to have a written license agreement giving the permittee and the permittee's agents the right to use permanent sanitary facilities located no more than five hundred (500) feet from the approved location.

Sec. 14.70.045. Transfer prohibited.

Permits issued under this article shall not be sold, assigned or transferred, and shall cover only the permittee to whom they are issued.

Sec. 14.70.050. Equipment other than pushcarts prohibited.

No permittee shall employ or have any movable or permanent stands, tables, chairs or devices other than the permitted pushcart and one (1) chair for the permittee situated at any approved location.

Sec. 14.70.055. Indemnity agreement.

As a condition to receiving the permit, every permittee shall execute an agreement holding the Town and its employees and agents harmless from any liability arising from the use of the permit.

Sec. 14.70.060. Insurance.

Every permittee, at the permittee's sole cost and expense, and during the entire term of the permit or any renewal thereof, shall obtain and maintain all insurance required by the Town as set forth by resolution.

Secs. 14.70.065–14.70.125. Reserved.

DIVISION 2. PERMITS

Sec. 14.70.130. Approved location–Required.

No person shall operate a pushcart on a public way within the Town without an approved location permit as provided in this division. Such permit shall be in addition to any business license required by the Town and the identification permit required by article IV of this chapter.

Sec. 14.70.135. Same–Application process.

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

Sec. 14.70.140. Same–Notice of filing of application.

Within fifteen (15) days after an application has been filed, the Planning Director shall publish a notice of such filing pursuant to Government Code section 6061, and also post a copy of such notice in at least two (2) conspicuous places close to the proposed location.

Sec. 14.70.145. Same–Consideration in review of applications.

Applications shall be reviewed in the light of all the facts relevant to the purposes of this article, including but not limited to the following:

(1) Compliance with the specific requirements of this article.

(2) The goals of the general plan and any applicable specific plans.

(3) Automobile and pedestrian safety, and minimum interference with parking.

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

(5) Diversity of product.

(6) Aesthetics.

Sec. 14.70.150. Same—Holding period for competing applications.

In order that the limited number of appropriate pushcart locations may be used by those pushcarts most compatible with the goals of this article, it is the intent of this article to promote competition for approved locations. No application shall therefore be deemed complete under Government Code section 65943 until at least thirty (30) days after the publication of notice called for in section 14.70.140. If other applications are filed for the same location within thirty (30) days of such 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.

Sec. 14.70.155. Same—Competing applications.

If more than one (1) application is filed for the same location, the Planning Director shall, if any pushcart is to be allowed in such location, approve the application which the Planning Director determines to be most compatible with the goals and criteria of this article. If applications are deemed to be equally compatible, selection shall be made by lottery.

Sec. 14.70.160. Same—Issuance for certain areas prohibited.

No permit shall be issued under this division for a location within the following areas:

(1) On private property. Outdoor display of merchandise on private property is governed by chapter 29 of this Code.

(2) Immediately adjacent to residentially zoned property.

(3) Within one hundred fifty (150) feet of a business selling food for on-site consumption, in the case of a pushcart

selling food; or within one hundred fifty (150) feet of a business selling a similar commodity in the case of a pushcart selling commodities other than food.

(4) Within one hundred fifty (150) feet of another approved location.

(5) Within five hundred (500) feet of an elementary or junior high school.

(6) In any Town park outside the central business district as defined in the downtown specific plan.

Sec. 14.70.165. Same—Appeal.

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

Sec. 14.70.170. Same—Revocation.

An approved location permit may be revoked at any time upon a written determination by the Planning Director that the permit is being utilized in a manner contrary to law, the goals of this article, or the general welfare of the Town. Prior to such revocation, the Planning Director shall give the permittee written notice by first class mail of intention to revoke, and shall hold an informal hearing allowing the permittee to present arguments against revocation.

Sec. 14.70.175. Same—Duration.

An approved location permit shall be issued for one (1) year. New applications for a specific location shall not be accepted until ninety (90) days prior to expiration of an existing permit for that location.

Sec. 14.70.180. Temporary permits for special events.

The Town Council may, as part of its approval of any special event, authorize the issuance of a specified number of temporary pushcart permits, not to exceed five (5), for a specified number of days in connection therewith. In such case, applications for temporary permits shall be submitted to the Town Manager, with the

written endorsement of the agency sponsoring the special event, and the department shall approve the temporary permit for a specific location if it finds that issuance of the permit will promote the purpose of this article. There shall be no appeal from the denial of an application for a temporary permit.