



1 ~~vendor licenses may be issued by the city manager]~~ The city manager may issue up to six (6) Plaza  
2 pushcart vendor licenses per term.

3 D. *Location.* At the discretion of the city, the locations of the plaza pushcart vendors  
4 may be designated in the Plaza Park; the Plaza; or the Plaza periphery.

5 E. *Term.* A vendor license shall be valid for a period of [~~five (5)~~] two (2) years from  
6 January 1 or the date issued, whichever is later, of the first year to December 31 of the [~~fifth~~] second  
7 year, subject to the provisions of this chapter.

8 F. *Requirements for Plaza Pushcart Vendor License Applications.*

9 (1) The city shall give public notice of the application period by whatever no-fee  
10 notice or announcement channels are available through local print, audio or video media.  
11 [~~Application shall be made during the month of November beginning in 2009 and every five~~  
12 ~~(5) years after that, during the month of October.]~~ For the 2015-2017 license term, application  
13 shall be made during the month of April 2015. For the 2018-2020 license term, application  
14 shall be made during the month of September 2017. Every two years thereafter, application  
15 shall be made during the month of September.

16 (2) Each applicant shall be required to:

17 (a) Pay an application fee. [~~Such~~] The application fee shall be  
18 established by a resolution adopted by the governing body;

19 (b) Allow disclosure of the applicant's name and address as a matter of  
20 public record;

21 (c) Provide a state taxpayer identification number;

22 (d) Be a resident[s] of Santa Fe county;

23 (e) Describe on the application the type of food product the applicant  
24 will offer for sale, including prices[-]; and

25 (f) Designate on the application the proposed hours of operation of the

1 Plaza pushcart.

2 (3) Only one (1) Plaza pushcart vendor license shall be allowed per immediate  
3 family.

4 (4) The applicant shall affirm, in the presence of a notary public, that if the  
5 applicant is granted a Plaza pushcart vendor license:

6 (a) ~~[The applicant understands that no refund or any portion of the~~  
7 ~~license fee shall be made to him if the license is relinquished or revoked]~~ The license  
8 fee, or any portion thereof, is nonrefundable.

9 (b) ~~[The]~~ During the term of the license, the applicant shall maintain  
10 adequate insurance in at least the amounts stated in the New Mexico Tort Claims Act  
11 and shall provide proof of such insurance coverage to the city on an annual basis  
12 during the term of the license. ~~[Such]~~ The insurance policy shall ~~[provide that]:~~

13 (1) Name the city of Santa Fe ~~[is named]~~ as an additional  
14 insured on the policy; and

15 (2) State that the city ~~[is]~~ shall be notified no less than thirty  
16 (30) days in advance of cancellation of such insurance policy for any reason.

17 ~~[As a condition prior]~~ Prior to operation as a Plaza pushcart vendor, the Plaza  
18 pushcart vendor shall furnish the city with a copy of a certificate of insurance.

19 (c) The applicant shall comply with all provisions of the Plaza Pushcart  
20 Ordinance, subsection 23-5.5 SFCC 1987, and any other applicable laws; and  
21 acknowledges that violation of this section or any other applicable law constitutes  
22 grounds for permanent revocation of the license.

23 (5) ~~[Applications]~~ An application may not be submitted by any person who  
24 previously was issued a Plaza pushcart vendor license whose license was revoked according  
25 to the procedures for revocation of the license set forth in subsection 23-5.5(J).

1 (6) Each application shall include:

2 (a) four (4) photographs of the ~~[front, back and each side of the]~~ Plaza  
3 pushcart vendor's cart, with views of the front, back and each side of the cart,  
4 [including] and the specifications of the cart; or

5 (b) ~~[if the cart is not yet built,]~~ a set of blueprints and specifications of  
6 each elevation of the proposed cart, if the cart has not been built.

7 (7) ~~[A certificate of concept approval from the food services section of the state~~  
8 ~~environmental improvement division.]~~ If a Plaza pushcart license is awarded, the vendor  
9 shall be required to obtain a ~~[food purveyor's]~~ permit to operate as a food establishment from  
10 the ~~[state environmental health division]~~ New Mexico environment department.

11 (8) Each applicant shall submit six (6) copies of the application, with original  
12 ~~[photos]~~ photographs or blueprints and specifications attached. Photographs shall have been  
13 taken no more than one (1) year before the date the application is submitted. Photographs  
14 shall be ~~[of a size that allows the person to be easily recognized, and]~~ no larger than eight and  
15 one-half inches by eleven (8 1/2" x 11") inches.

16 (9) Each application shall be reviewed by city staff for completeness. Incomplete  
17 applications shall not be considered.

18 (10) The pushcart vendor license fee, as established by resolution of the  
19 governing body, shall be paid to the city. No refund of any portion of the fee shall be made  
20 when a license is relinquished or revoked. If fees are not paid accordingly, the license shall be  
21 revoked.

22 G. *Procedures for License Selection.*

23 (1) ~~[For the purpose of issuance of licenses in 2010, the city manager shall~~  
24 ~~designate, no later than December 31, 2009 and for subsequent years, no later than November~~  
25 ~~1 beginning in 2014 and every five (5) years after that, a jury panel comprised of a minimum~~

1 of five (5) members from established city committees or other residents of the city of Santa  
2 Fe. The names of the jury panel shall be disclosed to the applicants. Prior to the designation  
3 of a jury panel, the city shall provide to the proposed jury panel members with the names of  
4 the applicants for the Plaza pushcart vendor licenses.] When necessary, the city manager  
5 shall designate a jury panel comprised of five (5) members who are residents of the city of  
6 Santa Fe to select the Plaza pushcart vendors. Prior to the designation of the panel, the city  
7 shall disclose the names of the pushcart applicants to potential panel members and the names  
8 of the potential panel members to the applicants.

9 (a) A jury panel member shall [~~not be allowed to serve~~] be prohibited  
10 from serving on the panel if he is related to an applicant for a Plaza pushcart license  
11 by consanguinity or affinity to the third degree. For purposes of this section  
12 consanguinity means related by blood; affinity means one's spouse or related through  
13 one's spouse; and third degree means aunts, uncles, nieces and nephews.

14 (b) A jury panel member shall not be allowed to serve on the panel if he  
15 has a conflict of interest with any applicant in accordance with the city of Santa Fe  
16 Code of Ethics Ordinance, Section [~~1-3~~] 1-7 SFCC 1987.

17 (c) [~~Jury panel members~~] Each jury panel member shall affirm that they  
18 shall be fair and impartial during the selection process.

19 (2) The jury panel shall review and score each application separately. Scoring  
20 shall be based on the following number of points and criteria:

21 (a) Up to fifty (50) points for quality, freshness, taste and cost of food.

22 (b) Up to thirty (30) points for a personal interview with the applicant, at  
23 which time the applicant shall be required to explain how each food item that the  
24 applicant is proposing to sell is prepared and demonstrate how at least one food item  
25 is prepared.

1                                   (c) Up to ten (10) points for the design of the pushcart.

2                                   (d) Up to ten (10) points for compatibility and diversity of the pushcart  
3                                   and food items with Plaza activities.

4                   [Scoring of each criteria shall be based on one (1) through five (5) points, with one (1) being  
5                   poor; two (2) being needs improvement; three (3) being satisfactory; four (4) being good and  
6                   five (5) being excellent. All scores shall be calculated by city staff and thereafter applications  
7                   shall be ranked accordingly.]

8                   (3) ~~The jury panel shall evaluate applicants according to the following selection~~  
9                   ~~criteria:~~

10                                   (a) ~~Design of the pusheart;~~

11                                   (b) ~~Compatibility and diversity with Plaza activities;~~

12                                   (d) ~~Experience of the applicant as shown on the resume;~~

13                                   (e) ~~An interview with the applicant, at which the applicant will be asked~~  
14                   ~~to explain and/or demonstrate how the food item is prepared;~~

15                                   (f) ~~Quality, taste and cost of food; and~~

16                                   (g) ~~Beginning in 2014, evaluations that have been performed by city~~  
17                   ~~staff in accordance with subsection 23-5.3J SFCC 1987, shall be included as part of~~  
18                   ~~the selection criteria.]~~

19                   ([4]3) Scores shall be calculated by city staff. The results [Applications] shall be  
20                   ranked numerically [~~on the above basis~~] and licenses shall be awarded in order of rank, from  
21                   highest score to lowest. In the event there is a tie in the ranking of applicants, the jury panel  
22                   shall determine the appropriate means by which the tie shall be broken. The city shall provide  
23                   written notice of the jury panel's ranking. [~~A vendor~~] An applicant may appeal to the city  
24                   manager the decision of the jury panel within fifteen (15) days of the date of the city's notice  
25                   of ranking. The city manager or his designee has sole discretion to grant or deny the appeal.

1 The ranking of applications ~~[shall]~~ may be adjusted ~~[pending]~~ based on the outcome of the  
2 appeal process.

3 ((~~5~~)4) After the appeal period has ended and any adjustments have been made to the  
4 ranking, the city shall mail notification of approval of licenses to the successful applicants.

5 ((~~6~~)5) Prior to issuance of any license, the city shall assign pushcart spaces on the  
6 Plaza Park, the Plaza or the Plaza periphery. ~~[An applicant who had a license the previous  
7 license period who receives a license for the upcoming license period may retain the space he  
8 or she used previously. Otherwise, spaces]~~ Spaces shall be assigned by means of a lottery.

9 ((~~7~~)6) Each successful applicant shall obtain a city business registration as set forth  
10 in Section 18-2 SFCC 1987 for use only on the ~~[Plan]~~ Plaza, in the Plaza park or on the Plaza  
11 periphery.

12 ((~~8~~)7) The annual Plaza pushcart vendor license fee may be paid in full or in two  
13 (2) increments. The full or initial increment shall be paid within thirty (30) days of the date of  
14 the written notification of approval; the second increment shall be paid no later than six (6)  
15 months from the date of issuance of the license. If the license fee is not paid within thirty (30)  
16 days of the date of the written notification, the license shall be issued to the applicant with the  
17 next-highest score.

18 ((~~9~~)8) In the event that ~~[during the five (5) year license period]~~ a Plaza pushcart  
19 vendor space is available but no qualified applicant remains from the selection process, the  
20 city may repeat the selection process and issue licenses for the remaining time.

21 H. *Conditions of Operation.*

22 (1) Plaza pushcart license holders are prohibited from receiving money, goods or  
23 services for use of their designated space.

24 (2) Plaza pushcart vendors shall not hinder or impede pedestrian flow on any  
25 sidewalk within the Plaza Park or traffic flow on any street surrounding the Plaza Park.

1 (3) Plaza pushcarts shall occupy no more than ~~[fifty-four (54) square feet (nine~~  
2 ~~feet by six feet (9' x 6'))]~~ ninety-six (96) square feet (twelve feet by eight feet (12' x 8')).  
3 Such space shall include a cart no larger than four feet by eight feet by eight feet (4'x 8' x 8'),  
4 an umbrella if desired, a thirty-two (32) gallon trash can and a fire extinguisher (class  
5 2A1OBC) as required by the city fire code.

6 (4) Plaza pushcarts shall pass a city mandated fire inspection.

7 (5) During the term of the license, push cart vendors may offer for sale only the  
8 products that were indicated on the license application and accepted by the jury panel.

9 (6) Loud speakers, for voice transmission and amplification of music, banging,  
10 hawking or yelling are prohibited.

11 (7) Signs of all types are prohibited except the following:

12 (a) Standard size business cards;

13 (b) A sign that provides method of payment, not to exceed eight and  
14 one-half by five and one-half (8 1/2" x 5 1/2") inches; and

15 (c) A total of three (3) square feet for a sign or signs, attached to the  
16 cart, which may include the name of the business and the menu.

17 (8) The pushcart vendor's current business registration shall be available on site  
18 for inspection at all times of operation.

19 ~~[(9) Pusheart vendors shall only operate between the hours of 8:00 a.m.~~  
20 ~~to 10:00 p.m. each day, including weekends, except as set forth in this paragraph. Pusheart~~  
21 ~~vendors shall not be set up after 12:00 noon, unless authorized by the city to extend the time,~~  
22 ~~on the day prior to the major commercial events specified in subsection 23-5.2A SFCC 1987~~  
23 ~~or at any time on the days said major commercial events are held on the Plaza. A pusheart~~  
24 ~~vendor may apply to the sponsors of those events for inclusion as one of the vendors at that~~  
25 ~~event. The city may also request pusheart vendors to cease operation due to construction, for~~



1 security reasons or in the event of an emergency.

2 ~~(10) Only the pusheart vendor or a member of the pusheart vendor's immediate~~  
3 ~~family or the one (1) person who has been designated on the application as the non-~~  
4 ~~immediate family member may sell the products. The license holder may list additional~~  
5 ~~immediate family members not included in the application or change the person designated as~~  
6 ~~a non family member to sell, up to twice each year.]~~

7 (9) The pushcart vendor shall identify on the application the names of the  
8 individuals who are authorized to sell from the pushcart, along with the vendor. Such  
9 individuals may include one (1) member of the pushcart vendor's immediate family, one (1)  
10 non-immediate family member and one (1) employee of the vendor. Up to two times during  
11 the license term, the license holder may change the names of the designated individuals.

12 ~~(10)~~ The pushcart vendors shall operate their licenses as follows:

13 (a) For the months of March through October, pushcart vendors shall be  
14 set up a minimum of twenty (20) days per month, for eight (8) hours per day,  
15 between the hours of 8:00 a.m. to 10:00 p.m, during the term of the license. This  
16 requirement may be modified by the city because of inclement weather.

17 (b) During the months of November through February, pushcart vendors  
18 may be set up as the weather permits.

19 (c) Pushcart vendors shall not be set up after twelve o'clock noon  
20 (12:00) on a day prior to a major commercial event specified in subsection 23-5.2(A)  
21 SFCC 1987 or at any time on the days a major commercial event is held on the Plaza.  
22 A pushcart vendor may apply to the sponsors of the major commercial events for  
23 inclusion as one of the vendors at that event.

24 (d) The city may request that pushcart vendors cease operation due to  
25 construction, for security reasons or in the event of an emergency.

1                   ~~[(a) — The Plaza pushcart vendor shall be in operation no later than May 1~~  
2                   ~~of each year the permit is issued, unless otherwise approved by the city. If the Plaza~~  
3                   ~~pushcart vendor does not operate by May 1 of any year of the license period, then the~~  
4                   ~~license shall be revoked, in accordance with section 23-5.5J SFCC 1987.]~~

5                   ~~— (b) — The city retains the right to modify this requirement for pushcart~~  
6                   ~~vendors because of inclement weather.]~~

7                   ((12)11)       The city shall designate temporary vehicle parking for the setup or  
8                   tear down of pushcarts provided that Plaza pushcart vendors shall obtain a loading zone  
9                   permit from the city parking division and comply with the requirements for such permit.

10                  ((13)12)       Plaza pushcart vendors shall pay municipal gross receipts tax and  
11                  submit copies of combined reporting systems (CRS) tax returns to the city manager or  
12                  designee in a sealed envelope. ~~[on an annual basis]~~ CRS returns shall be submitted on a bi-  
13                  annual basis for the reporting periods ending June 30 and December 31 and the submittal  
14                  shall include all reporting periods (whether the vendor files monthly, quarterly or bi-  
15                  annually), with the dates of the returns corresponding with the term of the license. A pushcart  
16                  vendor license is subject to revocation if [Any] any pushcart vendor [who] fails to deliver the  
17                  CRS tax returns to the city manager or designee ~~[shall be terminated from the Plaza pushcart~~  
18                  ~~vendor program]~~. It is unlawful for any employee of the city of Santa Fe to reveal to any  
19                  individual other than another employee of the city of Santa Fe any information contained in a  
20                  pushcart vendor CRS return except in such manner, for statistical purposes, that the  
21                  information revealed is not identified as applicable to any individual taxpayer.

22                  (14)     The city manager may adopt a code of conduct that shall apply to all pushcart  
23                  vendors.

24                  I.     *Transfer of License.* A license is not transferable except as follows:

25                  (1)     If at any time after issuance of a license, a pushcart vendor is not going to use

1 a license, the vendor shall notify the city and relinquish the license.

2 (2) The city may revoke a license if the city determines that the license has not  
3 been used for more than [~~thirty (30)~~] twenty (20) [~~consecutive~~] days within a calendar month,  
4 for the months of March through October. The city may offer the remaining time on the  
5 license to the next qualified applicant from the selection process set forth in this section.

6 ([2]3) If a pushcart vendor dies or becomes incapacitated, the city manager may  
7 offer the remaining time on the license to a member of the Plaza pushcart vendor's immediate  
8 family [~~listed~~] who has been identified on the application. However, at the expiration of the  
9 license period, that immediate family member shall be considered a new applicant in the  
10 selection process should he decide to apply.

11 J. *Enforcement.*

12 (1) The city shall inspect all pushcarts at least monthly to confirm compliance  
13 with this section and any applicable laws. Upon determining that the pushcart vendor is in  
14 violation of any provision of this section, the city may suspend or revoke the license subject  
15 to the provisions of Section 23-5 SFCC 1987.

16 [~~(2) — On an annual basis, the city shall meet with the pushcart vendors and conduct~~  
17 ~~a written evaluation of the pushcart vendor's compliance with the Santa Fe Plaza Pushcart~~  
18 ~~Vendor Ordinance. The city shall retain a copy of the written evaluation.]~~

19 ([3]2) The city shall investigate complaints alleging violation of this section  
20 provided that the complaint is [~~filed on a form provided by the city,~~] signed by the  
21 complainant and includes the complainant's telephone number and address.

22 ([4]3) Any vendor found to be [~~not in~~] out of compliance with this section shall be  
23 notified in writing, by certified mail or personal service, of the violation and shall have [~~thirty~~  
24 ~~(30)~~] ten (10) calendar days from the date of the notice to come into compliance. If the  
25 violation is not corrected, the vendor shall be notified in writing, by certified mail or personal

1 service, that the license is suspended for fifteen (15) days. If the vendor is found to not be in  
2 compliance a second time within a license period, the vendor shall be notified in writing, by  
3 certified mail or personal service, that the license is suspended for thirty (30) days. If the  
4 vendor is found to not be in compliance a third time within a license period, the vendor shall  
5 be notified in writing, by certified mail or personal service, that the license is revoked. [~~For~~  
6 ~~the time period a license is suspended, the fifteen (15) day requirement set forth in subsection~~  
7 ~~23-5-3H(11) shall be adjusted accordingly.~~]

8 ([5]4) Within [~~fifteen (15)~~] five (5) calendar days of receiving a notice of violation,  
9 a vendor may request a hearing before the city manager or his designee.

10 K. *Termination of Pushcart Vendor License.* The city of Santa Fe reserves the right to  
11 terminate any or all Plaza pushcart vendor licenses, with or without cause, if such termination is  
12 found to be in the best interest of the city of Santa Fe. In the event of termination, the city shall  
13 provide a thirty (30) day written notice to each pushcart vendor whose license is being terminated.

14 L. *Amendments.* The city of Santa Fe reserves the right to amend the Plaza Pushcart  
15 Vendor Ordinance prior to the expiration of any Plaza pushcart vendor license.

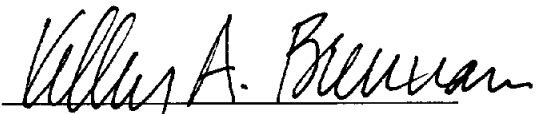
16 M. *Continuation of Plaza Pushcart Vendor License.* In the event that a [~~selection~~] jury  
17 panel has not been established or the applications have not been issued, the city manager may  
18 administratively extend the term of a license, not more than two (2) times, for no more than a six (6)  
19 month period each time.

20 N. *Review.* This subsection shall be reviewed by the governing body within one (1) year  
21 of adoption.

22 O. *Effective Date.* This subsection shall become effective immediately upon adoption by  
23 the governing body.

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APPROVED AS TO FORM:



KELLEY A. BRENNAN, CITY ATTORNEY