

(O-84-210)

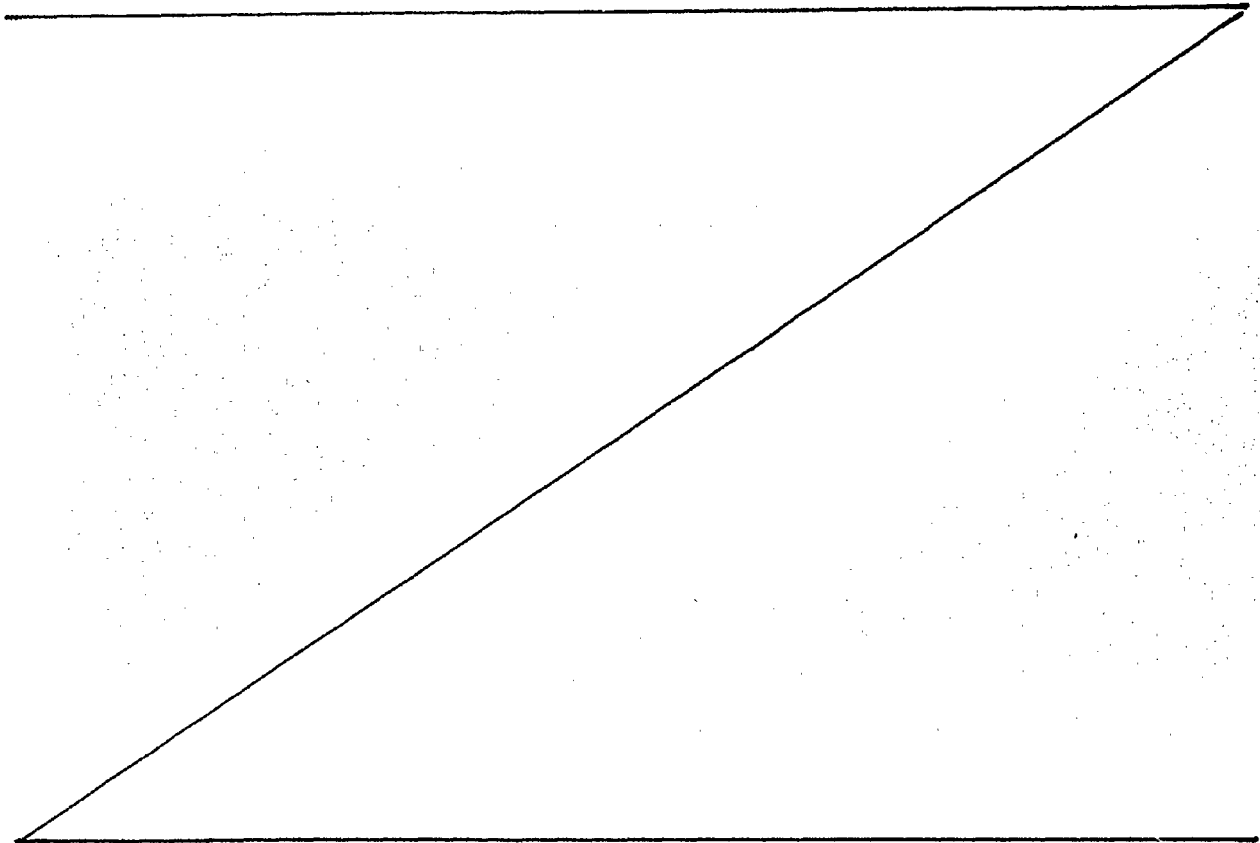
ORDINANCE NUMBER O- 16228 (New Series)

Adopted on JUN 25 1984

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1,
DIVISION 5, OF THE SAN DIEGO MUNICIPAL CODE BY
ADDING SECTION 101.0560, RELATING TO PUSHCARTS.

BE IT ORDAINED, by the Council of The City of San Diego, as
follows:

Section 1. That Chapter X, Article 1, Division 5, of the
San Diego Municipal Code be, and the same is hereby amended by
adding Section 101.0560 to read as follows:



A. PURPOSE AND INTENT

The regulations established in this ordinance are intended to permit pushcart vendors of food products, fresh fruits and vegetables, fresh-cut flowers and live plants in pots to conduct business on public sidewalks and on private property; while protecting public health, safety and general welfare; and to allow for the creation of a more interesting and active pedestrian environment.

B. PERMITTED LOCATIONS

1. Public Property - Pushcarts in the public right-of-way shall be allowed, subject to the provisions of this ordinance, in The City of San Diego in those areas designated on certain map drawing No. C-681 filed in the office of the City Clerk.
2. Private Property - in Zones CBD, C, C-1, CR, CN, CC, CA-RR, CA, M-1, M-1A and M-2, Gaslamp Quarter Planned District, Area "A" in Old Town.

C. DEFINITIONS

1. PHYSICAL OBSTRUCTION includes but is not limited to light standards, trees, parking meters, trash receptacles, traffic signals, signs, benches, phone booths, newspaper stands, bus stops, driveways, pedestrian ramps, etc.
2. PUSHCART means any moveable wheeled, non-motorized vehicle used by a vendor on a public or private space which meets the provision of this ordinance.
3. FOOD PRODUCTS shall mean those foods defined in Section 42.0161 of the Municipal Code and by the San Diego County Department of Health Services and includes, in addition, fresh fruits and vegetables subject to conditions as set forth by the San Diego County Department of Health Services.

D. LOCATION AND DESIGN CRITERIA

1. Public Property Location.
 - a. Pushcarts shall not touch or be affixed permanently or temporarily to any building or structure, including physical obstructions.

b. A clear path must be maintained for pedestrians at all times. There shall be a minimum clear distance of 50 percent of the distance from the property line to the curb line, but in no event less than eight feet of paved sidewalk, free of all physical obstructions in the direction of pedestrian flow.

1. For pushcarts located at the curb line, the minimum clear distance shall be measured from the pushcart to the nearest obstruction within the flow of pedestrian traffic. No portion of the pushcart shall overhang the curb line.
2. For pushcarts not located at the curb line, the minimum clear distance shall be measured from the pushcart to either the curb line or to the nearest obstruction within the flow of pedestrian traffic.

In no event may the recesses in the building frontage be used to satisfy the minimum clear distance requirements.

An exception to the minimum clear path width may be granted if a review of pedestrian volumes and existing street conditions by the Planning Director

and City Engineer indicate no congestion would result.

- c. The pushcart operator shall make his best efforts when located on the curb side of the sidewalk not to obstruct within reason access to a parked vehicle, impede the delivery of materials to adjoining property, nor preclude any existing curb space use. A curbside pushcart shall not sell to motorists or persons in vehicles.
- d. A clear path at street intersections shall be maintained measured from the property line extended in both direction out to the curb line.

2. Private Property Location

A pushcart business located on private property but visible from the public right-of-way, will be subject to the procedures, design criteria restrictions, and zones of this ordinance.

E. APPLICATION FOR PERMITS

1. Application for a Pushcart Permit shall be made to the Planning Director or his designated representative and shall include the following:

- a. A completed application indicating the location(s) at which the business will be operated and product(s) to be sold.
 - b. An application for an encroachment permit which is to be signed jointly by
 1. owner of the adjacent property
 2. proprietor of the adjacent street level business
 3. applicant
 - c. Photographs and/or artist rendering of the pushcart, showing dimensions, materials to be used, color(s), and type of signing, with a scaled site plan of the proposed operating location(s), relationship of location to existing adjacent buildings, uses, sidewalk, and street curbside and improvements such as light standards, trees, trash containers, etc.
2. A pushcart operator vending food products must also obtain a permit from the County Department of Health Services and comply with the requirements of Municipal Code Section 42.0101.2 and Sections 42.0160 through 42.0168.

3. The applicant shall pay a deposit as required by Section 101.0204 of the Municipal Code.

F.. DECISION OF THE PLANNING DIRECTOR/CITY ENGINEER

1. The Planning Director shall consider the design of the pushcart including:
 - a. Appropriateness of cart design and color schemes for the product and character of location;
 - b. Appropriateness of signing and graphics for products for sale and location. These provisions supersede SEC 42.0163(q) of the Municipal Code.
2. The Planning Director and the City Engineer shall review the application to determine whether the specified location is suitable for pushcart use and will not infringe on the use of sidewalk areas as public right-of-way. In making the determination of suitability, the Planning Director and City Engineer shall consider:
 - a. the width of the sidewalk;
 - b. the proximity and location of building entrances;

- c. existing physical obstructions including, but not limited to, signposts, light standards, parking meters, benches, phone booths, newsstands and utilities;
- d. motor vehicle activity in the adjacent roadway including but not limited to bus stops, truck loading zones, taxi stands or hotel zones; passenger loading and,
- e. pedestrian traffic volumes.

If it is determined that congestion will result as a consequence of any of the above factors, either the Planning Director or City Engineer or both may deny a permit based on a determination of congestion, or a determination that a potential pedestrian safety and/or a potential traffic safety conflict may be created.

- 3. The Planning Director and City Engineer shall not approve any Pushcart Permit unless the proposed business has been publicly noticed at least ten days prior to the decision in the official City newspaper and by mail, to all business licensees and property owners of record within three hundred feet of the proposed business, to the affected community planning groups, and any other person or organization which has requested such notification.

4. If the Planning Director and City Engineer determine that the application is complete and conforms with all City regulations, policies, guidelines, and design standards contained herein, a Pushcart Permit shall be granted.

5. Operating Restrictions

The following operating restrictions shall apply:

- a. In operating a food products pushcart the provisions of Municipal Code Sections 42.0161 to 42.0168 shall apply.

- b. The pushcart shall be a maximum of four (4) feet in width excluding wheels, eight (8) feet in length including any handle, and no more than six (6) feet in height excluding canopies, umbrellas or transparent enclosures.

- c. During hours of operation pushcarts must remain in the location specified in the application.

- d. The pushcart operator shall not verbally solicit business from pedestrians or motorists in the public right-of-way or on private property.

- e. The prices of food items sold must appear in a prominent, visible location in legible characters.
- f. No permitted cart shall be left unattended either on private property or in the public right-of-way nor remain on the public right-of-way between midnight and 6:00 a.m. except for special events as provided for in the Municipal Code Section 42.0130.1.
- g. The permit issued may not be transferred, but there can be more than one applicant for a single permit.
- h. An applicant that has received a pushcart permit must have an operating cart on the specified site within 60 days of approval. Failure to do so will terminate the permit.
- i. The permit is valid only when used at the location designated on the permit which must be displayed in a prominent and visible place.
- j. A public liability Insurance Policy of at least \$500,000 shall be required before approval of permits allowing encroachments in the public right-of-way. Such liability insurance shall be provided in a form and an amount acceptable to the

City Engineer. The policy shall name The City of San Diego as an additional insured and shall be maintained at all times.

G. APPEAL FROM THE DECISION OF THE PLANNING DIRECTOR OR CITY ENGINEER

An appeal from the decision of the Planning Director or City Engineer on an application for a Pushcart Permit shall be governed by the provisions of Municipal Code Section 62.0413(b).

If an appeal is filed within the time specified, it shall automatically stay proceedings in the matter.


H. TERM OF PUSHCART PERMIT AND ENCROACHMENT PERMIT

1. Pushcart permits shall be issued for the term of the applicant's Business License, but shall be subject to termination at any time on a 10 day prior written notice upon determination of the Planning Director or City Engineer that one or more of the conditions or provisions of the permit have been violated. The decision of the Planning Director or City Engineer to terminate a permit is subject to the same appeal provisions contained in Section 62.0413(b) of the Municipal Code.

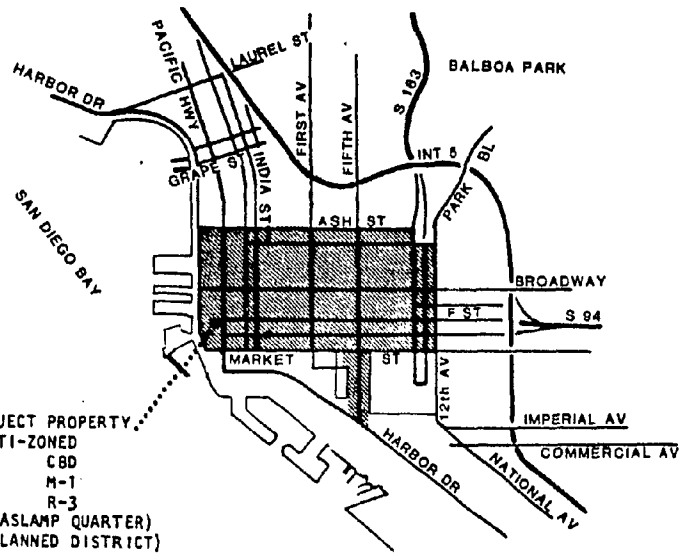
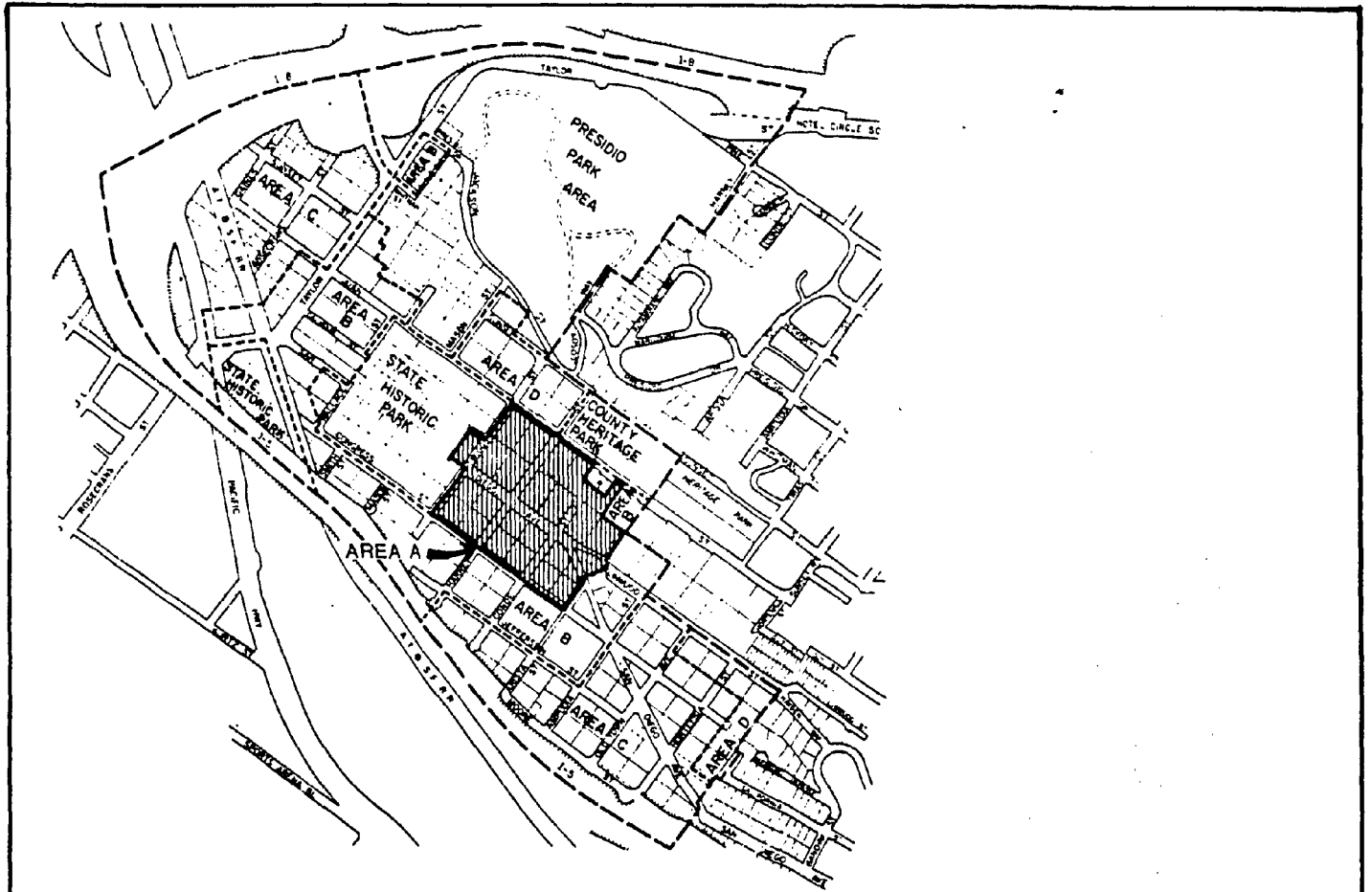
2. If granted, the Encroachment Permit shall be in effect for one year from date of issuance. Withdrawal of the Encroachment Permit by the owner of the adjacent property and or proprietor of the adjacent street level business shall only be considered after a written statement of just cause is issued to the Planning Director and determined to be valid. Just cause includes but is not limited to:
 - a. Adverse environmental conditions caused by the pushcart business; and
 - b. Pushcart business is detrimental to operation of adjoining property.
3. The Pushcart permit can be revoked for the violation of one or more of the restrictions listed in Section F No. 5.
4. Yearly renewal of the pushcart permit can be obtained at the same time as renewal of the business license. Renewal of the pushcart permit does not require additional payment of fees.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: John W. Witt, City Attorney

By 
Frederick C. Conrad
Chief Deputy City Attorney

FCC:ib:630
04/16/84
Or.Dept:Plan.
0-84-210
Form=o.none



SUBJECT PROPERTY
 MULTI-ZONED
 CBD
 M-1
 R-3
 (GASLAMP QUARTER)
 (PLANNED DISTRICT)

| | | |
|--|---|-------------------|
| ORD NO. _____ | BEFORE _____ | REQUEST _____ |
| EFF. DATE ORD. _____ | EFF. DATE ZONING _____ | AREA _____ |
| ZONING SUBJECT TO _____ | MAP NAME _____ | CASE _____ |
| PLAN COMM. RECOMMENDATION APPROVE | <i>Michael J. ...</i> CITY PLANNING DIRECTOR | CITY OF SAN DIEGO |
| CITY COUNCIL ACTION _____ | <i>Sue ...</i> SECRETARY OF COMMISSION | C-681 |



01141

0-16228

Passed and adopted by the Council of The City of San Diego on JUN 25 1984,
 by the following vote:

| Councilmen | Yeas | Nays | Not Present | Ineligible |
|-----------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| Bill Mitchell | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bill Cleator | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Gloria McColl | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| William Jones | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ed Struiksma | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mike Gotch | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Dick Murphy | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Uvaldo Martinez | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Roger Hedgecock | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

ROGER HEDGECOCK

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *Barbara Bayter*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JUN 12 1984

, and on

JUN 25 1984

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *Barbara Bayter*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-16228 Adopted JUN 25 1984

CERTIFICATE OF PUBLICATION

RECEIVED
CITY CLERK'S OFFICE

1984 JUL 18 AM 11: 58
SAN DIEGO, CALIF.

CITY OF SAN DIEGO
ATTN: BARBARA BAXTER
202 C Street, 12th Floor
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

ORDINANCE NO. O-16228

ORDINANCE NO. O-16228
(New Series)

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 5, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 101.680, RELATING TO PUSHCARTS.
The ordinance amends the Municipal Code by adding provisions establishing a comprehensive program relating to the use of pushcarts for vending specified products and merchandise from both private property and sidewalk areas.
Locational design and operational criteria are established.
A permit procedure is established. Applications are made to the Planning Director. An appeal may be taken from the decision of the Planning Director.
Permits for pushcarts remain in effect for one year from date of issuance.
Pushcarts may be utilized in specified areas of the Old Town Planned District and the Downtown area including the Gaslamp Planned District.
A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 12th floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.
Introduced JUNE 12, 1984.
Passed and adopted by the Council of The City of San Diego JUNE 25, 1984.
AUTHENTICATED BY:
ROGER HEDGECOCK,
Mayor of The City of San Diego, California
CHARLES G. ABDELNOUR,
City Clerk of The City of San Diego, California
(SEAL)
By BARBARA BAXTER, Deputy
Publish July 16, 1984

I, Carrie Gedeon, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NO. O-16228
(New Series)

53 1/4" X 8.87 = 51.00

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

July 16, 1984

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 16th day of July, 1984.

Carrie Gedeon

(Signature)

01143