

TO: James L. App, City Manager
FROM: Jim Throop, Director of Administrative Service
SUBJECT: Ice Cream Vendor Permits
DATE: May 3, 2011

NEEDS: For the City Council to consider a permit for Rebecca's Ice Cream Truck to conduct business within the City of Paso Robles.

- FACTS:**
1. The City municipal code sections, written in 1956 (Ord. 197 N.S. Sec. 130) and 1959 (Ord. 223 N.S. Sec. 39), do not allow for vendors/peddlers within the city boundaries, *except by permit of the City Council.*
 2. The vendor, Rebecca's Ice Cream Truck, requested a hearing to obtain approval for a permit.
 3. It is advisable to require a background check for any vendors/peddlers who may interact with minors.
 4. In addition, California Vehicle Code section 22456 imposes certain restrictions and requirements upon operators of "ice cream trucks," as defined in that section.
 5. Rebecca's Ice Cream Truck is requesting a permit to allow for sales in residential neighborhoods as well as for sales to businesses in select downtown locations, but only at the business owner's invitation. Such sales to businesses would not occur on public streets.
 6. Prior ice cream vendor permits only allowed for sales in residential neighborhoods and did not permit ice cream trucks to sell ice cream within commercial areas.

**ANALYSIS &
CONCLUSION:**

The City municipal code sections, as they pertain to vendors/peddlers, were written in 1956 and 1959. The Municipal Code has not been changed since the original ordinances were enacted.

The City has received a request from a vendor/peddler for permission to conduct business within the City. The vendor, Rebecca's Ice Cream Truck, has both requested and responded to requests for information from, the City pertaining to its business.

The request by this vendor differs from those received from other ice cream vendors in that this vendor does not focus on sales in residential neighborhoods. Rather, this vendor responds to invitations from businesses and sells ice cream from private parking lots to employees of the business. In addition, however, this vendor seeks permission to sell in residential neighborhoods.

If granted, this permit would allow the vendor to sell ice cream both within residential areas and to travel to businesses within the City where the vendor has been requested/invited to sell its wares to the requesting business' employees.

It is recommended by staff that, should the Council approve a permit to allow sales to employees at private businesses, not be permitted to conduct such sales while stopped in any public right-of-way or on public property. The vendor's vehicle must be parked completely on the private property of the business while conducting sales.

Should the vendor sell to persons other than the employees of the requesting/inviting business, the ice cream vendor would need to seek approval from the Planning department to ensure that current zoning allows for such a use. This may require a Conditional Use Permit or something similar, but the vendor would need to submit the paperwork to the Planning department before a response can be provided.

In summary, the City Council is being asked to determine whether a permit should be issued to the applicant allowing for sales (i) in residential areas, so long as the applicant follows all vehicle and municipal codes concerning sales and stopping/parking of its vehicle, and (ii) by invitation from private businesses throughout the City so long as any sales are limited to business employees and on private property. Staff recommends that any approval be conditioned upon certain stipulations, including: (i) satisfactory background checks performed by the City of Paso Robles' Police Department, (ii) payment of all applicable fees and permits, and (iii) sales generally limited to residential areas and occasional business locations and in compliance with the requirements of Vehicle Code section 22456.

POLICY

REFERENCE: Municipal Code Section 5.04.390; California Vehicle Code section 22456.

FISCAL

IMPACT: Potential minor increase to revenues due to business licensing and permits.

OPTIONS:

- A. Adopt Resolution No. 11-XXX approving the issuance of a permit to Rebecca's Ice Cream for sales from mobile ice cream trucks subject to certain conditions;
- B. Amend, modify or reject above option.

Tina,

I appreciate the time and consideration you folks are giving this matter. Rather than call (as you suggested), I would prefer to let this email stand on its own as a matter of record for all parties to consider.

I am not pursuing this for personal gain nor advancements of a particular agenda (well, after proof-reading it, maybe I am). Without identifying the specific businesses, I can say that a health care provider and financial institution (both of which probably have more locations in our community in their respective fields than any others) have approached me about periodically favoring their employees with a visit from Rebecca's Ice Cream Truck. To do so, would be a major diversion from our usual operations. However, because we are a service that deals with both the material and non-material (ice cream/memories), we tend to lean in the direction of sentimentality when it might be ill-advised.

If the City Council rejects my proposal, -fine. I will simply explain to my prospective clients that I cannot service them and they might want to consider pizza delivery. While the pizza delivery man/woman lacks the charm of Rebecca's Ice Cream Truck, it is allowed (I am assuming) by the City Council. I am aware of the history of the Ice Cream Truck in Paso Robles. In my opinion, when the Paso Robles' powers-that-be researched the issue in other communities and decided to leave approval in the hands of the City Council, they were misguided. Should that body have the authority to arbitrarily deny its business community/citizens the services of one food delivery service over another? I think not! It should be obvious that I am under no illusion about how this will probably turn out. However, maybe it will help.

Sincerely,

Michael McFarlen

March 30, 2011

Paso Robles City Council,

Rebecca's Ice Cream Truck has recently been asked by two businesses (with multiple locations in Paso Robles) if we could periodically serve their employees on Friday afternoon between 1-4 pm. While your city does allow for licensing businesses for the delivery of food items, restrictions placed upon Mobile Ice Cream Vendors create some interesting challenges: 1) Traveling throughout the commercial areas in a "high profile" vehicle, and 2) Vending from our vehicle in the parking lot in a commercial area.

Regarding item #1: While it is not our intent to vend in residential areas at this time, we feel it would be prudent to secure the appropriate license to do so. In this way, we will have a Mobile Ice Cream Vendor specific license to present if we are challenged.

Regarding item #2: Ice Cream Truck vending is a unique experience which has its nostalgic roots in "days gone by". An integral part of that experience is hearing the unmistakable tunes as the truck approaches and meeting the truck to make your selection.

Rebecca's Ice Cream Truck is currently licensed by the San Luis Obispo County Health Department as well at the Cities of Arroyo Grande, Grover Beach, Morro Bay and San Luis Obispo. It is our sincere hope that we will be able to add Paso Robles to that list so that we can serve the businesses who have requested that we do so. We intend to complete that process after we receive your approval.

Respectfully Submitted,

D. J. McFarlen

Owner-Rebecca's Ice Cream Truck



30/08/2010 8:16 am

RESOLUTION NO. 11-xxx

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
APPROVING THE ISSUANCE OF PERMITS FOR REBECCA'S ICE CREAM**

WHEREAS, the Paso Robles Municipal Code does not allow for vendors/peddlers within city boundaries except by permit of the City Council; and

WHEREAS, for any vendor/peddler wanting to do business within the City must appear before the City Council for a permit; and

WHEREAS, California Vehicle Code section 22456 requires vendors selling ice cream and similar products from trucks comply with certain requirements; and

WHEREAS, the vendor Rebecca's Ice Cream has formally requested a hearing for approval of a permit from the City;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of El Paso de Robles that a permit be issued to Rebecca's Ice Cream for Fiscal Year 2012 subject to (i) a background check by the City of Paso Robles Police Department; (ii) payment of all associated fees related to the conduct of business within the City of Paso Robles; and (iii) submission of evidence reasonably satisfactory to City that vendor's vehicle complies with the requirements of Vehicle Code section 22456 and any other requirements of law; and

BE IT HEREBY FURTHER RESOLVED by the City Council of the City of Paso Robles that such permits for Rebecca's Ice Cream for Fiscal Year 2012 allow the vendor to sell its products within residential areas of the City subject to the limitations contained in California Vehicle Code section 22456 and any other applicable codes and ordinances, and by invitation/request to select businesses and product sales to only the employees of the business, and by invitation to special events occurring within other zones within the City, subject to the limitations of state law.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 5th day of July 2011 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk