



**OFFICE OF THE
CITY ATTORNEY**

JAMES P. JACKSON
CITY ATTORNEY

THEODORE H. KOBEY, JR.
ASSISTANT CITY ATTORNEY

**CITY OF SACRAMENTO
CALIFORNIA**

812 TENTH STREET
SACRAMENTO, CA
95814-2694

916-449-5346

DEPUTY CITY
ATTORNEYS:
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO
LAWRENCE M. LUNARDINI
GARLAND E. BURRELL, JR.
DIANE B. BALTER
RICHARD F. ANTOINE
TAMARA MILLIGAN-HARMON
LINDA M. GONZALES

April 29, 1987

**Law & Legislation Committee
Sacramento, California**

Honorable Members In Session:

Subject: An Emergency Ordinance Amending Section 7.72 and 7.73 of the Sacramento City Code Relating to Outdoor Sales and Displays of Merchandise, Food and Drink

SUMMARY

This report recommends enactment of an emergency ordinance amending Sections 7.72 and 7.73 of the City Code, relating to outdoor sales and displays of merchandise, food and drink on private property in order to close certain unintended loopholes which may prevent full implementation of the Council's policy against outdoor vending.

BACKGROUND

On January 24, 1984, the City Council enacted Ordinance No. 84-008 which generally prohibits outdoor displays and sales of merchandise on private property. At that time, the Council was confronted with a proliferation of sales of items such as blue jeans, mirrors, paintings, stuffed animals, and flowers from vacant lots and abandoned gas stations, etc.

The policy of the City Council, as implemented by Ordinance 84-008, is to encourage commercial activity within enclosed structures. Ordinance 84-008 contains several exceptions to the prohibition on outdoor activity in § 7.73, including vehicle sales, lumber yards, horticultural nurseries, limited outdoor displays where purchase ordinarily occurs inside, Christmas trees and fireworks sales, etc.

The two exceptions, "temporary circus and carnival activities (4 days maximum per event)" and "Sale of food from motorized vehicles which do not remain at one location in excess of 15 minutes" have caused staff enforcement problems. For example, although staff believes that the circus and carnival exception was intended to apply only to operators of circuses and carnivals with permits issued under Chapter 5 of the City, potential vendors contend that this exception permits them to set up on vacant lots or other outdoor private property during special events such as the Jazz Festival.

The exception for motor vehicles was intended primarily for catering trucks which service business locations, but can be used in an attempt to justify an operation on one or two vacant lots in which there is movement from one spot to another every 15 minutes.

In order to clarify the ordinance and permit fair and uniform application, staff recommends that the exception for temporary circuses, carnival activities and moving motorized vehicles be deleted. Any problems relating to circuses and carnivals can be handled through the Chapter 5 permit process. Catering trucks are unlikely to be adversely affected since they do not ordinarily sell to passers-by and can be screened from view. If necessary, it is expected that they can operate from a nearby street under Section 7.54 (e) (2). Staff also recommends that the words "food or drink" be added to § 7.72 to clarify that the prohibition on outdoor sale of merchandise was intended to apply to food and drink.

Because outdoor vending is most active during the summer, and because the Jazz Festival is scheduled for May 22-25, 1987, the amendments are presented in the form of an emergency ordinance to take effect immediately. On April 28, 1987, the Old Sacramento Citizens & Merchants Association's Board of Directors discussed this subject and endorsed the staff recommendations.


It should be noted that this ordinance has no effect on sales from public property (sidewalks, etc.) which are governed by a different part of Chapter 7.

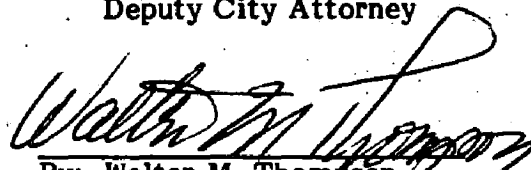
RECOMMENDATION:

It is recommended that the Law & Legislation Committee recommend that the full Council adopt an emergency ordinance amending Sections 7.72 and 7.73 of the City Code regarding outdoor sales and displays.

Respectfully submitted,

JAMES P. JACKSON
City Attorney


By: Diane B. Balter
Deputy City Attorney


By: Walter M. Thompson
Citizens Assistance Officer

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

AN ORDINANCE AMENDING SECTIONS 7.72 and 7.73 OF THE SACRAMENTO CITY CODE, RELATING TO OUTDOOR SALES AND DISPLAYS OF MERCHANDISE, AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY ORDINANCE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO THAT:

Section 1.

Sections 7.72 and 7.73 of the Sacramento City Code are hereby amended to read as follows:

§ 7.72 Outdoor sales and displays unlawful.

It is unlawful to sell, attempt to sell, or display for sale any merchandise, food or drink on private property except from within a fully enclosed building or from an area screened so as not to be visible from an adjacent public street or public sidewalk.

§ 7.73 Certain activities or businesses excepted.

The prohibition of Section 7.72 shall not apply to the following activities or businesses, when conducted in a zone where such sale or display is permitted as a matter of right pursuant to the city's comprehensive zoning ordinance (Ordinance No. 2550, fourth series, as amended):

- (a) Display of merchandise outside a fully enclosed building, in association with a business where purchase of such merchandise ordinarily takes place within the building;
- (b) Automobile, boat, trailer, camper, and motorcycle sales and rentals;
- (c) Retail lumber yards;
- (d) Fruit and vegetable stands possessing a valid special permit from the City Planning Commission and authorization from the California Department of Agriculture;
- (e) Horticultural nurseries;
- (f) Vending machines, when located in service stations, motels, and other "drive-in" businesses;

- (g) Gasoline pumps, oil racks and accessory items when located on pump islands;
- (h) Christmas trees sales;
- (i) Fireworks sales;
- (j) Yard sales (maximum one per calendar year not to exceed two consecutive days);
- ~~(k) Temporary circus and carnival activities (4 days maximum per event);~~
- (l) (k) Sale of newspapers, books, periodicals and other printed material;
- ~~(m)~~ (l) Mobile health and veterinary clinics;
- ~~(n)~~ (m) Fund-raising activities conducted by organizations exempted from the business operations tax by Section 23.304 (b) of the Sacramento City Code;
- ~~(o) Sale of food from motorized vehicles which do not remain at one location in excess of 15 minutes. Ord. No. 84-008. §1.~~

Section 2.

This ordinance is hereby declared to be an emergency ordinance to take effect immediately. The grounds for the emergency is the need to fully implement the City Council's intent to prevent outdoor sales of merchandise, food and drink, and to remove certain ambiguities in the existing ordinance so that the ordinance can be applied fairly and equally without delay.

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

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