

CITY OF SACRAMENTO

24

DEPARTMENT OF LAW

812 TENTH STREET SACRAMENTO, CA 95814
SUITE 201 TELEPHONE (916) 449-5348

JAMES P. JACKSON
City Attorney
THEODORE H. KOBEY, JR.
Assistant City Attorney
LELAND J. SAVAGE
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO
DIANE B. BALTER
RICHARD F. ANTOINE
Deputy City Attorneys

September 28, 1983

APPROVED
BY THE CITY COUNCIL

City Council
Sacramento, CA

SEP 28 1983

Honorable Members in Session:

OFFICE OF THE
CITY CLERK

RE: AN EMERGENCY ORDINANCE IMPOSING A MORATORIUM ON
ESTABLISHMENT OF OUTDOOR VENDOR BUSINESSES

SUMMARY

This proposed ordinance, imposing a moratorium on establishment of businesses offering merchandise for sale outside of a fully enclosed building, and declaring the ordinance to be an emergency measure to take effect immediately, is presented at the request of Councilman Kastanis.

BACKGROUND

The number of outdoor vendors selling merchandise to passers-by has increased dramatically within the City recently. Neither the existing City Code nor the Comprehensive Zoning Ordinance contains comprehensive regulations related to the conduct of outdoor businesses. If the Council desires to study the possibility of imposing land use, zoning or other controls on outdoor businesses, it is desirable to prevent the establishment, during the study period, of additional outdoor businesses which may conflict with the regulations to be adopted.

This emergency ordinance would make it unlawful, from its effective date through December 28, 1983, to sell, attempt to sell, or display for sale any merchandise on private property except from within a fully enclosed building or an area screened so as not to be visible from adjacent streets and sidewalks.

The following activities are exempted from the ban on outdoor display of merchandise, if conducted in a zone where outdoor sale or display is permitted by the Comprehensive Zoning Ordinance.

1. Outdoor display of merchandise incidental to a business conducted from within a fully enclosed building.

2. Outdoor display of merchandise by itinerant vendors who obtained a business operations tax certificate during the three-month period immediately preceding September 28, 1983. Because tax certificates for itinerant vendors must be obtained on a quarterly basis, no vendor can currently be legally established in the City unless he or she was issued a certificate during the past three months. Thus, itinerant vendors legally doing business outdoors in the City as of September 28, 1983 may continue to do so during the moratorium. Itinerant vendors issued a business operations tax certificate after September 28, 1983 would not be able to sell outdoors during the moratorium.

The itinerant vendor must also be able to show evidence of written permission from the owner of the property on which the merchandise is displayed.

3. Ten specific types of businesses which ordinarily require outdoor sale or display of merchandise, including auto sales, retail lumber yards, produce stands, nurseries, vending machines, gasoline stations, Christmas tree sales, fireworks sales, yard sales and circuses.

4. Sale of printed matter, which may be amenable to lesser regulation because of First Amendment concerns.

The ordinance makes violation of its provisions an infraction, punishable by a fine not exceeding \$50.00 for the first violation, \$100.00 for the second violation, and \$250.00 for each additional violation within a one-year period.

RECOMMENDATION

Councilman Kastanis requests that the Council consider immediate enactment of the proposed ordinance on an emergency basis.

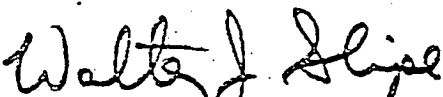
Very truly yours,

JAMES P. JACKSON
City Attorney

By: 

DIANE B. BALTER
Deputy City Attorney

RECOMMENDATION APPROVED:


CITY MANAGER

ORDINANCE NO. 83-118

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

SEPTEMBER 28, 1983

AN ORDINANCE IMPOSING A MORATORIUM ON ESTABLISHMENT OF BUSINESSES OFFERING MERCHANDISE FOR SALE OUTSIDE OF A FULLY ENCLOSED BUILDING, AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

APPROVED
BY THE CITY COUNCIL

SEP 28 1983

OFFICE OF THE
CITY CLERK

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO

SECTION 1.

There has been a proliferation throughout the City of Sacramento of outdoor roadside businesses offering various types of merchandise for sale to those passing by on public streets and sidewalks. The uncontrolled proliferation of these outdoor roadside businesses creates traffic hazards and contributes to neighborhood blight. Imposition of some form of land use, zoning or other controls on such businesses appears to be in the public interest. The purpose of this ordinance is to prevent additional uncontrolled proliferation of such businesses while the City is studying and considering appropriate regulations to be applied.

SECTION 2.

(a) From the effective date of this ordinance to and including December 28, 1983, it shall be unlawful to sell, attempt to sell, or display for sale any merchandise 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.

(b) The prohibition of subsection (a) 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):

(1) Display of merchandise outside a fully enclosed building, in association with a business where purchase of such merchandise ordinarily takes place within the building;

(2) Display or sale of merchandise by an itinerant vendor to whom a business operations tax certificate pursuant to section 23.665 of the Sacramento City Code was issued during the period June 29, 1983 through September 28, 1983, who has in his or her possession evidence of the written permission of the owner of the property on which the display or sale is being conducted;

(3) Automobile, boat, trailer, camper, and motorcycle sales and rentals;

(4) Retail lumber yards;

(5) Fruit and vegetable stands possessing a valid special permit from the City Planning Commission and authorization from the California Department of Agriculture;

(6) Horticultural nurseries;

(7) Vending machines, when located in service stations, motels, and other "drive-in" businesses;

(8) Gasoline pumps, oil racks, and accessory items when located on pump islands;

(9) Christmas tree sales;

(10) Fireworks sales;

(11) Yard sales (maximum 2 days per year);

(12) Temporary circus and carnival activities (4 days maximum);

(13) Sale of newspapers, books, periodicals and other printed material.

(c) Any person violating this ordinance is guilty of an infraction subject to the provisions of Government Code Section 36900(b). Any person violating this ordinance shall be deemed guilty of a separate offense for each day, or portion thereof, during which such violation continues and shall be punishable therefor as provided in this subsection.

SECTION 3.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the immediate need to protect the public safety, health, and welfare by preventing the further uncontrolled proliferation of outdoor roadside businesses which constitute traffic hazards and contribute to neighborhood blight while the City Council is studying and considering land use, zoning, and other proposals relating to outdoor roadside businesses, and to prevent establishment in the interim of new businesses which conflict with the proposals which may be adopted.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK



CITY OF SACRAMENTO

24 ~~287~~

JAMES P. JACKSON
City Attorney
THEODORE H. KOBEY, JR.
Assistant City Attorney
LELIAND J. SAVAGE
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO
DIANE B. BALTER
RICHARD F. ANTOINE
Deputy City Attorneys

DEPARTMENT OF LAW
312 TENTH STREET SACRAMENTO, CA 95814
SUITE 201 TELEPHONE (916) 449-5346

September 20, 1983

FILED
By the City Council
Office of the City Clerk
Cont to
9-28-83

City Council
Sacramento, CA

Honorable Members in Session:

SEP 20 1983

RE: AN EMERGENCY ORDINANCE IMPOSING A MORATORIUM ON
ESTABLISHMENT OF OUTDOOR VENDOR BUSINESSES

SUMMARY

This proposed ordinance, imposing a moratorium on establishment of businesses offering merchandise for sale outside of a fully enclosed building, and declaring the ordinance to be an emergency measure to take effect immediately, is presented at the request of Councilman Kastanis.

BACKGROUND

The number of outdoor vendors selling merchandise to passers-by has increased dramatically within the City recently. Neither the existing City Code nor the Comprehensive Zoning Ordinance contains comprehensive regulations related to the conduct of outdoor businesses. If the Council desires to study the possibility of imposing land use, zoning or other controls on outdoor businesses, it is desirable to prevent the establishment, during the study period, of additional outdoor businesses which may conflict with the regulations to be adopted.

This emergency ordinance would make it unlawful, from its effective date through December 20, 1983, to sell, attempt to sell, or display for sale any merchandise on private property except from within a fully enclosed building or an area screened so as not to be visible from adjacent streets and sidewalks.

The following activities are exempted from the ban on outdoor display of merchandise, if conducted in a zone where outdoor sale or display is permitted by the Comprehensive Zoning Ordinance.

1. Outdoor display of merchandise incidental to a business conducted from within a fully enclosed building.

2. Outdoor display of merchandise by itinerant vendors who obtained a business operations tax certificate during the three-month period immediately preceding September 20, 1983. Because tax certificates for itinerant vendors must be obtained on a quarterly basis, no vendor can currently be legally established in the City unless he or she was issued a certificate during the past three months. Thus, itinerant vendors legally doing business outdoors in the City as of September 20, 1983 may continue to do so during the moratorium. Itinerant vendors issued a business operations tax certificate after September 20, 1983 would not be able to sell outdoors during the moratorium.

The itinerant vendor must also be able to show evidence of written permission from the owner of the property on which the merchandise is displayed.

3. Ten specific types of businesses which ordinarily require outdoor sale or display of merchandise, including auto sales, retail lumber yards, produce stands, nurseries, vending machines, gasoline stations, Christmas tree sales, fireworks sales, yard sales and circuses.

4. Sale of printed matter, which may be amenable to lesser regulation because of First Amendment concerns.

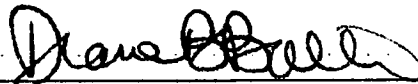
The ordinance makes violation of its provisions an infraction, punishable by a fine not exceeding \$50.00 for the first violation, \$100.00 for the second violation, and \$250.00 for each additional violation within a one-year period.

RECOMMENDATION

Councilman Kastanis requests that the Council consider immediate enactment of the proposed ordinance on an emergency basis.

Very truly yours,

JAMES P. JACKSON
City Attorney

By: 
DIANE B. BALTER
Deputy City Attorney

RECOMMENDATION APPROVED:


CITY MANAGER

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

SEPTEMBER 20, 1983

AN ORDINANCE IMPOSING A MORATORIUM ON ESTABLISHMENT OF BUSINESSES OFFERING MERCHANDISE FOR SALE OUTSIDE OF A FULLY ENCLOSED BUILDING, AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

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

SECTION 1.

There has been a proliferation throughout the City of Sacramento of outdoor roadside businesses offering various types of merchandise for sale to those passing by on public streets and sidewalks. The uncontrolled proliferation of these outdoor roadside businesses creates traffic hazards and contributes to neighborhood blight. Imposition of some form of land use, zoning or other controls on such businesses appears to be in the public interest. The purpose of this ordinance is to prevent additional uncontrolled proliferation of such businesses while the City is studying and considering appropriate regulations to be applied.

SECTION 2.

(a) From the effective date of this ordinance to and including December 20, 1983, it shall be unlawful to sell, attempt to sell, or display for sale any merchandise 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.

(b) The prohibition of subsection (a) 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):

(1) Display of merchandise outside a fully enclosed building, in association with a business where purchase of such merchandise ordinarily takes place within the building;

(2) Display or sale of merchandise by an itinerant vendor to whom a business operations tax certificate pursuant to section 23.665 of the Sacramento City Code was issued during the period June 21, 1983 through September 20, 1983, who has in his or her possession evidence of the written permission of the owner of the property on which the display or sale is being conducted;

(3) Automobile, boat, trailer, camper, and motorcycle sales and rentals;

(4) Retail lumber yards;

(5) Fruit and vegetable stands possessing a valid special permit from the City Planning Commission and authorization from the California Department of Agriculture;

(6) Horticultural nurseries;

(7) Vending machines, when located in service stations, motels, and other "drive-in" businesses;

(8) Gasoline pumps, oil racks, and accessory items when located on pump islands;

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(11) Yard sales (maximum 2 per year);

(12) Temporary circus and carnival activities (4 days maximum);

(13) Sale of newspapers, books, periodicals and other printed material.

(c) Any person violating this ordinance is guilty of an infraction subject to the provisions of Government Code Section 36900(b). Any person violating this ordinance shall be deemed guilty of a separate offense for each day, or portion thereof, during which such violation continues and shall be punishable therefor as provided in this subsection.

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SECTION 3.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the immediate need to protect the public safety, health, and welfare by preventing the further uncontrolled proliferation of outdoor roadside businesses which constitute traffic hazards and contribute to neighborhood blight while the City Council is studying and considering land use, zoning, and other proposals relating to outdoor roadside businesses, and to prevent establishment in the interim of new businesses which conflict with the proposals which may be adopted.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

MEMORANDUM

TO: LAW AND LEGISLATION COMMITTEE
FROM: LORRAINE MAGANA, CITY CLERK *LM*
SUBJECT: REFERRAL TO ITEM NUMBER 24, COUNCIL
AGENDA OF SEPTEMBER 28, 1983
DATE: OCTOBER 3, 1983

Pursuant to Council action, the following subject matter is referred to your committee for hearing, report and recommendation:

Ordinance 83-118 imposing a moratorium on establishment of outdoor vendor businesses

LM/sl

cc: CITY ATTORNEY *File*

Enclosure: **CERTIFIED COPY OF OR83-118**

P. S. Lorraine wanted to bring to your attention the following names to be included in noticing procedures: Lance Sims, Lancer Specialties, 260 W. El Camino Avenue, Sacramento, CA 95833; and Shawn Rhine, 2715 "V" Street, Apartment 5, Sacramento, CA 95816

ORDINANCE NO. 83-118

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

SEP 28 1983

AN ORDINANCE IMPOSING A MORATORIUM ON ESTABLISHMENT OF BUSINESSES OFFERING MERCHANDISE FOR SALE OUTSIDE OF A FULLY ENCLOSED BUILDING, AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

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CERTIFIED AS TRUE COPY OF
Ordinance No. 83-118 ~~4th Series~~

DATE
CERTIFIED OCT 4 1983

Anne D. Mason

Assistant City Clerk, City of Sacramento

(1) Display of merchandise outside a fully enclosed building, in association with a business where purchase of such merchandise ordinarily takes place within the building;

(2) Display or sale of merchandise by an itinerant vendor to whom a business operations tax certificate pursuant to section 23.665 of the Sacramento City Code was issued during the period June 21, 1983 through September 20, 1983, who has in his or her possession evidence of the written permission of the owner of the property on which the display or sale is being conducted;

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ENACTED: SEP 28 1983

EFFECTIVE: SEP 28 1983

R. BURNETT MILLER

MAYOR

ATTEST:

LORRAINE MAGANA

CITY CLERK