



12

**OFFICE OF THE
CITY ATTORNEY**

SHARON SIEDORF CARDENAS
CITY ATTORNEY

THEODORE H. KOBAY, JR.
ASSISTANT CITY ATTORNEY

SR. DEPUTY CITY ATTORNEYS:
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO

**CITY OF SACRAMENTO
CALIFORNIA**

921 TENTH STREET
SUITE 700
SACRAMENTO, CA
95814-2717

PH. 916-449-5346
FAX 916-449-6755

May 22, 1991

DEPUTY CITY ATTORNEYS:
EVELYN M. MATTEUCCI
DIANE B. BALTER
RICHARD F. ANTOINE
TAMARA MILLIGAN-HARMON
RICHARD E. ARCHIBALD
TIMOTHY N. WASHBURN
SABRINA M. THOMPSON
JOSEPH McINERNEY
JOE ROBINSON
LESLIE R. LOPEZ

Law and Legislation Committee
Sacramento, California

**SUBJECT: An Ordinance Amending Section 26.24 of the Sacramento City
Code Removing Geographic and Time Restrictions on Consumption
of Alcoholic Beverages at Sidewalk Tables Adjacent to Restaurants**

Honorable Members in Session:

SUMMARY

This report presents for Committee review an ordinance prepared at Councilmember Fargo's request to liberalize City rules relating to consumption of alcoholic beverages at sidewalk tables.

BACKGROUND

Councilmember Fargo recently asked the City Attorney to prepare an ordinance to lift geographic and time restrictions on consumption of alcoholic beverages at sidewalk tables.

The City Code currently prohibits consumption of alcoholic beverages on any public right-of-way, including sidewalks. The only exception is consumption of beer and wine between 11:00 a.m. and 8:00 p.m. at sidewalk tables in front of bona fide eating places at which the beer or wine is purchased on the K Street Mall between 3rd and 13th Streets and on 11th Street between J and L Streets.

The proposed amendment would:

- (a) Remove the time restrictions.
- (b) Apply the provisions City-wide.
- (c) Allow sidewalk table consumption of all alcoholic beverages, not just beer and wine.
- (d) Specify that the restaurant must have a revocable encroachment permit from the City and a proper ABC permit.

Continuing requirements include:

- (a) The premises must be a bona fide eating place.
- (b) The beverage must have been purchased on the premises.

Law & Legislation Committee

**RE: An Ordinance Amending Section 26.24 of
the Sacramento City Code, Removing Geographic
and Time Restrictions on Consumption of
Alcoholic Beverages at Sidewalk Tables
Adjacent to Restaurants**

May 22, 1991

Page 2

FINANCIAL DATA

None.

POLICY CONSIDERATIONS

Enactment of this ordinance would probably enliven evening activity in the downtown area and other areas of the City. It is consistent with Council policy to encourage a vibrant downtown.

MBE/WBE

Not applicable.

RECOMMENDATION

It is recommended that the Law & Legislation Committee review the proposed ordinance and made a recommendation to the full Council.

Respectfully submitted,

SHARON SIEDORF CARDENAS, City Attorney



DIANE B. BALTER
Deputy City Attorney

Contact Person to
Answer Questions:

Cindi Norton, Administrative Assistant
to Councilmember Heather Fargo
449-8239

Law and Legislation
May 30, 1991
All Districts

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE AMENDING SECTION 26.24 OF THE SACRAMENTO CITY CODE REMOVING GEOGRAPHIC AND TIME RESTRICTIONS ON CONSUMPTION OF ALCOHOLIC BEVERAGES AT SIDEWALK TABLES ADJACENT TO RESTAURANTS

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

Section 1.

Section 26.24 of the Sacramento City Code is hereby amended to read as follows:

§ 26.24 Intoxicating Beverages—Consumption on public streets, etc., and on liquor store parking lots and adjacent land unlawful.

- (a) It shall be unlawful for any person to consume beer, wine or any intoxicating liquor on any street, sidewalk, alley, highway or public court.
- (b) It shall be unlawful for any person to consume beer, wine or any intoxicating liquor:
 - (1) Upon any property used, or intended to be used as an accessory use, for the parking of motor vehicles by the patrons of any commercial establishment authorized by the State of California to sell alcoholic beverages; or
 - (2) Upon any unimproved property which adjoins such commercial establishment not used for the parking of motor vehicles, which is owned, operated or possessed by the owner, lessee or agent of such commercial establishment.
- (c) It shall be an infraction for any person who has in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, to enter, be, or remain on the premises of, including the parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with Section 23000) of the business and Professions Code, or on any public sidewalk immediately adjacent to the licensed premises, if the premises and parking lot contain clearly visible notices to the patrons of the licensee and parking lot and to persons on the public sidewalk as follows:

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

"Unlawful to enter, be or remain on these premises, adjacent parking lot or adjacent public sidewalk with an open alcoholic beverage container. CPC 647e(a); SCC 26.24(c)."

- (d) This section shall not prohibit the consumption, at sidewalk tables adjacent to the premises, of alcoholic beverages purchased on the premises by the customer of a bona fide eating place, as the term is defined in California Business and Professions Code Section 23038, if the bona fide eating place has obtained a revocable encroachment permit from the City authorizing the placement of sidewalk tables and a license from the Department of Alcoholic Beverage Control which permits the sidewalk consumption.
- (e) Nothing in this section shall be construed to make criminal any act or acts which are permitted or prohibited by any law of the State of California. (Ord. 84-018, §1).

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE AMENDING SECTION 26.24 OF THE SACRAMENTO CITY CODE REMOVING GEOGRAPHIC AND TIME RESTRICTIONS ON CONSUMPTION OF ALCOHOLIC BEVERAGES AT SIDEWALK TABLES ADJACENT TO RESTAURANTS

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

Section 1.

Section 26.24 of the Sacramento City Code is hereby amended to read as follows:

§ 26.24 Intoxicating Beverages—Consumption on public streets, etc., and on liquor store parking lots and adjacent land unlawful.

- (a) It shall be unlawful for any person to consume beer, wine or any intoxicating liquor on any street, sidewalk, alley, highway or public court.
- (b) It shall be unlawful for any person to consume beer, wine or any intoxicating liquor:
 - (1) Upon any property used, or intended to be used as an accessory use, for the parking of motor vehicles by the patrons of any commercial establishment authorized by the State of California to sell alcoholic beverages; or
 - (2) Upon any unimproved property which adjoins such commercial establishment not used for the parking of motor vehicles, which is owned, operated or possessed by the owner, lessee or agent of such commercial establishment.
- (c) It shall be an infraction for any person who has in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, to enter, be, or remain on the premises of, including the parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with Section 23000) of the business and Professions Code, or on any public sidewalk immediately adjacent to the licensed premises, if the premises and parking lot contain clearly visible notices to the patrons of the licensee and parking lot and to persons on the public sidewalk as follows:

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____

"Unlawful to enter, be or remain on these premises, adjacent parking lot or adjacent public sidewalk with an open alcoholic beverage container. CPC 647e(a); SCC 26.24(c)."

- (d) This section shall not prohibit the consumption, ~~between 11:00 a.m. and 8:00 p.m.,~~ at sidewalk tables adjacent to the premises, of ~~beer and wine alcoholic beverages~~ purchased on the premises by the customer of a bona fide eating place, as the term is defined in California Business and Professions Code Section 23038, ~~located on K Street between the easterly right of way line on 3rd Street and the easterly right of way line on 3rd Street and the easterly right of way line of 13th Street, or on 11th Street between the northerly right of way line of J Street and the northerly right of way line of L Street.~~ if the bona fide eating place has obtained a revocable encroachment permit from the City authorizing the placement of sidewalk tables and a license from the Department of Alcoholic Beverage Control which permits the sidewalk consumption.
- (e) Nothing in this section shall be construed to make criminal any act or acts which are permitted or prohibited by any law of the State of California. (Ord. 84-018, §1).

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

ORDINANCE NO.: _____

DATE ADOPTED: _____