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May 11, 1994

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Law and Legislation Committee
Sacramento, California

Honorable Members in Session:

SUBJECT: CITY POLICY RE OUTDOOR VENDING ON PRIVATE PROPERTY

LOCATION/COUNCIL DISTRICT: City-wide

STAFF RECOMMENDATION

It is recommended that the Law and Legislation Committee review this report and provide direction to staff.

CONTACT PERSON: Margaret Freeman, Revenue Manager, 264-5724 or
Diane Balter, Deputy City Attorney, 264-5346

FOR COMMITTEE MEETING OF: May 17, 1994

SUMMARY

This report describes current City regulations relating to outdoor vending on private property and recommends that the Law and Legislation Committee provide direction to staff.

BACKGROUND INFORMATION

Councilmember Josh Pane has requested that the Law and Legislation Committee review the City's regulations relating to outdoor vending from private property. The regulations are found in Chapter 7.07 of the City Code (copy attached). Generally, the City Code makes it 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. Exceptions to the general rule include:

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 (sidewalk sales or displays).

2. Automobile, boat, trailer, camper, motorcycle and construction equipment sales and rental.
3. Retail lumber yards, horticultural nurseries, Christmas tree sales, fireworks sales.
4. Fruit and vegetable stands with a valid special permit from the City Planning Commission.
6. Vending machines, when located in service stations, motels, and other "drive-in" businesses, and gasoline pumps, oil racks and accessory items when located on pump islands.
7. Sale of newspapers, books, periodicals and other printed material.
8. Yard sales (maximum one per calendar year not to exceed two consecutive days).
9. Mobile health and veterinary clinics.
10. Fund-raising activities conducted by organizations exempted from the business operations tax by Section 23.01.103(b) of the Sacramento City Code (charitable organizations known as 501(c)(3)'s).
11. Flea markets.

Any violation of these regulations is an infraction, punishable by a fine not to exceed \$100.00 on the first conviction, \$200.00 on the second conviction within one year, and \$500.00 on the third conviction within one year.

These regulations were enacted in 1984 to discourage the proliferation of outdoor vendors along many of the City's arterial streets, selling items such as rugs, flowers, fruits and vegetables, framed art prints, mirrors, and stuffed animals. Popular locations were active or vacant service stations and the parking area of other commercial properties. At the time, the City Council was concerned about traffic safety (drivers becoming distracted) and the visual blight caused by these vendors. Businesses within the City which occupy buildings, and pay rent, taxes, utilities, and other usual business costs also objected to the outdoor vendors who were getting a "free ride," negatively affecting those businesses which are an important part of the City's tax base.

Enforcement of these outdoor vending regulations is provided by the Finance Department's Revenue Division, Neighborhood Services Department code enforcement officers, and the Police Department where necessary, usually on a complaint basis. Enforcement is not a high priority, but is undertaken when staff resources permit.

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vending on private property
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FINANCIAL CONSIDERATIONS

This report raises no financial considerations.

POLICY CONSIDERATIONS

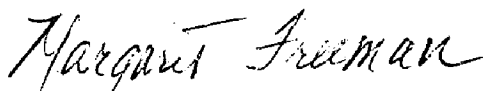
The prohibition on outdoor vending from private property described in this report reflects the City Council's policy relating to outdoor vending from 1984, when the regulations were first enacted, to the present.

MBE/WBE


This report does not concern the procurement of goods or services.

Respectfully submitted,

SAMUEL L. JACKSON
City Attorney

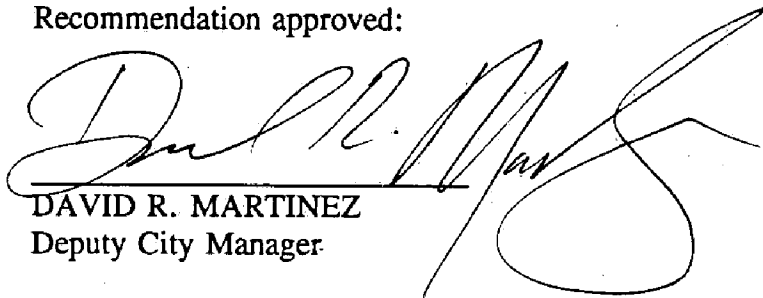


MARGARET FREEMAN
Revenue Manager



DIANE B. BALTER
Deputy City Attorney

Recommendation approved:



DAVID R. MARTINEZ
Deputy City Manager

**7.07.072 Outdoor sales and displays
unlawful.**

**7.07.073 Certain activities or businesses
excepted.**

7.07.074 Penalty for violation.

**7.07.075 to 7.07.079 Reserved. (Ord.
No. 84-008, 1)**

**7.07.072 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.

(Ord. No. 84-008, §1; Ord. No. 87-046, §1; Ord. No. 88-023 §1)

**7.07.073 Certain activities or businesses
excepted.**

The prohibition of Section 7.07.072 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 (Ord. 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, motorcycle and construction equipment 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 tree sales;

(i) Fireworks sales;

(j) Yard sales (maximum one per calendar year not to exceed two consecutive days);

(k) Sale of newspapers, books, periodicals and other printed material;

(l) Mobile health and veterinary clinics;

(m) Fund-raising activities conducted by organizations exempted from the business operations tax by Section 23.01.103(b) of the Sacramento City Code.

(n) Flea markets.
(Ord. No. 84-008, §1; Ord. No. 87-046, §1; Ord. No. 88-023 §2)

7.07.074 Penalty for violation.

Any person violating Section 7.07.072 is guilty of an infraction subject to the provisions of Government Code Section 36900(b). Any person violating Section 7.07.072 shall be deemed guilty of a separate offense for each day, or portion thereof, during which such violation continues and shall be punishable therefore as provided in this section.

(Ord. No. 84-008, §1)