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**M E M O R A N D U M**

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**DATE:** September 27, 2002  
**TO:** City Council Members  
**FROM:** Russell Weeks  
**RE:** Sidewalk Vending Carts  
**CC:** Cindy Gust-Jenson, Rocky Fluhart, David Nimkin, Margaret Hunt, Stephen Goldsmith, Steven Allred, Roger Evans, Lynn Pace, Edna Drake, Linda Cordova, Doug Dansie, Gary Mumford, Janice Jardine

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This memorandum is intended to address issues and options for the City Council to consider regarding the proposed ordinance to amend Salt Lake City Code Chapter 5.65 regulating sidewalk-vending carts. The City Council will hold a public hearing on the proposed amendments October 1. Nothing in this memorandum professes to be a legal opinion by City Council staff.

**POTENTIAL OPTIONS**

- Adopt the proposed ordinance.
- Do not adopt the proposed ordinance.
- Amend Section 5.65.070 titled *License and permit – Issuance Conditions* to require that when a vending cart owner renews his or her business license that the owner provide federal tax and state sales tax numbers so they can be listed on the owner’s license application.
- Amend Section 5.65.170.A.2 titled *Operational regulations* to increase the distance in which a sidewalk vending cart operator must clean up litter and “residue from any liquids spilled upon the sidewalk” from 25 feet to a 50-foot radius from a vending cart.

**POTENTIAL MOTIONS**

- I move that the City Council adopt the proposed ordinance.
- I move that the City Council not consider this item and proceed to the next item on the agenda.
- I move that the City Council adopt the proposed ordinance with the following addition: That Section 5.65.070 titled *License and permit – Issuance Conditions* contain a *Paragraph C* that reads: Upon renewal of existing permits a vendor shall provide the federal tax number and state sales tax number if those numbers are not already listed on the original application for a new business and regulatory license.
- I move that the City Council adopt the proposed ordinance with the following addition to Section 5.65.175.A.2 titled *Operational regulations*: That the words “on the sidewalk” be deleted from the section and the words “fifty-foot radius” replace the words “twenty-five feet” and “twenty-five-foot area” so that the section reads in part: All persons operating under a sidewalk vendor regulatory permit issued by the city shall comply with the

## **ITEM D-1**

following regulations: ... Pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter in any form which is deposited by any person within a fifty-foot radius of the place of conducting business; and clean up all residue from any liquids spilled upon the sidewalk within said fifty-foot radius.

### **Issues/Questions for Consideration**

- Is there a public value in locating sidewalk vending carts south of 600 South Street?
- Is there a public detriment in locating sidewalk vending carts south of 600 South Street?
- Is there a precedent in locating sidewalk vending carts south of 600 South Street?
- What is the purpose of allowing sidewalk vending carts in the Central Business District, the Sugar House Business District, city parks and Washington Square as well as allowing as a permitted use vending carts in M1 and M2 manufacturing zones, all Downtown zones, Research Park, Business Park and G-MU Gateway mixed-use zones?
- Should a requirement to provide tax numbers on business license applications be applied to all businesses?

### **DISCUSSION/BACKGROUND**

The proposed ordinance under City Council consideration is the result of discussion among the Council at a briefing September 10. The main feature of the proposed ordinance is a section that would create a secondary district for vending carts. The secondary district would be bordered by 600 South, 200 East, 900 South and West Temple streets. As in the existing ordinance, vending carts would be limited to one cart per block face. However, within the secondary district vending carts on sidewalks would be required to locate 100 feet away from the corners of blocks.

The intent of the latter restriction appears to be to ensure that vending carts are more dispersed geographically within the secondary district. Other restrictions for the main downtown district also would apply. Council Members may recall that Ordinance No. 23 that the City Council adopted May 14 requires sidewalk-vending carts to locate 100 feet away from businesses that sell goods similar to those sold at a vending cart. For example, a magazine vendor must locate 100 feet away from a store that sells magazines. It should be noted that Ordinance No. 23 is now the part of the City Code that regulates sidewalk vending carts.

The published version of Ordinance No. 23 created an “Expanded Central Business District” bordered by North Temple Street between 600 West and 300 West streets, 300 West Street between North Temple and South Temple streets; South Temple Street between 300 West and 200 East streets; 200 East Street between South Temple and 600 South streets; 600 South Street between 200 East and 600 West streets; and 600 West Street between 900 South and North Temple streets.

Ordinance No. 23 succeeded an earlier ordinance that defined the “Expanded Central Business District” as an area bordered by North Temple Street between 600 West and 300 West streets, 300 West Street between North Temple and South Temple streets; South Temple Street between 300 West and 200 East streets; 200 East Street between South Temple and 600 South streets; State Street between 600 South and 900 South streets; 900 South Street between State Street and 400 West streets; and 400 West streets between 900 South and North Temple streets.

## ITEM D-1

It should be noted that the City Council unanimously voted to adopt Ordinance 23 in part because Council Members were concerned about apparent direct competition between some vending carts and a nearby restaurant that all served similar food. It also should be noted that the City Council on June 13 unanimously voted to amend Ordinance No. 23 to change the southern boundary of the “Expanded Central Business District” from 600 South Street to 900 South Street and the eastern boundary between 600 South to 900 South to both sides of 200 East Street and the western boundary between from 600 South to 900 South streets to both sides of West Temple Street.

The City Council then held a public hearing September 3 on the proposed amendment but adopted a motion to continue the hearing. On September 17 the City Council set October 1 as the date to finish the public hearing.

It probably should be noted that except for issues involving four vending carts concentrated on two blocks split by 800 South Street, Ordinance No. 23 adopted in May accomplished the following:

- It expands areas where people can operate vending carts to the west of the Central Business District and in City parks.
- It expands the size of vending carts to improve operational efficiency.
- It prohibits vending carts in residential neighborhoods through clarifications of language regarding conditional uses and temporary uses.
- It allows vending cart operators to sell newspapers and magazines as well as fresh-cut flowers, balloons, and food and beverages or any combination of the listed items.

As mentioned, the remaining issues addressed in the latest version of the proposed ordinance deals largely with four vending carts on two blocks between State and Main streets divided by 800 South. A fifth cart located at about 165 East 900 South appears to City Council staff to be too geographically distant to be related to most of the issues raised in public discussions about vending carts in the area.

As noted earlier in this memorandum, the main feature of the latest version of the proposed ordinance involves the creation of a secondary district bordered by 600 South, 200 East, 900 South and West Temple streets. Within the secondary district vending carts would be required to locate 100 feet from the corners of blocks. The main intent of the secondary district appears to be to implement the requirement of locating 100 feet from the corners of blocks without affecting vending carts in other areas where they are allowed. The intent of the 100-foot requirement appears to be to allow vending carts to continue to operate in the secondary district after their permits and leases expire December 31 but to disperse vending carts from each other to lessen the effect vending carts located near each other may have on the landscape and nearby businesses.

Issues the City Council may wish to consider include:

- Is there a public value in locating sidewalk vending carts south of 600 South Street?
- Is there a public detriment in locating sidewalk vending carts south of 600 South Street?
- Is there a precedent in locating sidewalk vending carts south of 600 South Street?
- What is the purpose of allowing sidewalk vending carts in the Central Business District, the Sugar House Business District, city parks and Washington Square as well as allowing

## ITEM D-1

as a permitted use vending carts in M1 and M2 manufacturing zones, all Downtown zones, Research Park, Business Park and G-MU Gateway mixed-use zones?

In a narrower scope, some public comment on previous drafts of the existing ordinance and proposed amendments to it have questioned whether existing vending cart operators pay state and federal taxes on their businesses and comply with Salt Lake Valley Health Department codes.

After public comment at the City Council's meeting September 17 City Council staff rechecked public information it had earlier reviewed regarding Utah sales tax collections and further checked public information available at the Utah departments of Commerce and Workforce Services and the State Tax Commission. Staff also reviewed records at the Salt Lake Valley Health Department and spoke in person to the latter department's Food Protection Bureau manager.

Based on the information available, it appears to City Council staff that the four vending cart operators that seem to be the focus of most of the public discussion comply with *all* Salt Lake Valley Health Department standards. Although State tax information on individual businesses is private, there is enough information available to indicate that the operators of the four vending carts have sought to meet State requirements.

It probably should be noted that, based on a request by a City Council Member, City Council staff figured the cost of the \$175 lease per square foot of a vending cart. The cost per square foot equals about \$5 per square foot. The figure is significantly more than the cost per square foot that businesses within structures pay in property taxes.

Another item the City Council may wish to consider is the context of the area the amendment proposes to create as a secondary district.

Historically, the area south of 400 South Street on State and Main streets has been considered a commercial extension of downtown Salt Lake City. According to the 1962 *Second Century Plan*:

... on the south end, however, the commercial activities continue on down Main and State Streets with no definition of where the hard core ends and secondary activities begin. ... Beginning at 8<sup>th</sup> South it is proposed that a series of architectural pylons or arches be installed at regular intervals on Main Street. People moving through these would be able to sense that they were approaching the main Downtown area.

The 1988 *Regional/Urban Design Assistance Team Study* noted the extension of commercial activity when it recommended, "firm boundaries should be established on the south and east sides of the DBD to prevent the diffusion of activity and the continued erosion of existing neighborhoods."

The 1995 *Downtown Plan* contains a proposal to extend "Indian Head" street lights to 900 South Street between 500 West and 200 East streets. According to the text, "Downtown lighting should be part of a larger system of District and Boulevards. State Street, Main Street, 400 South, 300 West, West Temple and North Temple all are boulevards that should each have their own distinctive street light. All other streetlights should reflect the Downtown district theme which is the traditional Indian Head Lamp."

## ITEM D-1

One might draw two conclusions from the paragraphs above. First, the area between 400 South and 900 South appears to remain an extension of downtown commercial activity. Second, there have been – in at least two instances – recommendations to differentiate between the Central Business District and areas around it.

Meanwhile, commercial and other activities in the area between 600 South and 900 South appear to have undergone a change in the last 20 years. Council staff has attached a number of photographs to portray the eclectic nature of businesses in and around the area proposed as a secondary district for sidewalk vending carts. City Council Members may wish to consider whether, given the nature of the businesses in the photographs, sidewalk vending carts complement or detract from the general activity in the area. (Please see Attachment.)

Council staff also has suggested two motions to amend the proposed ordinance. The first suggested motion reads: “I move that the City Council adopt the proposed ordinance with the following amendment: That Section 5.65.070 titled *License and permit – Issuance Conditions* contain a *Paragraph C* that reads: Upon renewal of existing permits a vendor shall provide the federal tax number and state sales tax number if those numbers are not already listed on the original application for a new business and regulatory license.”

The suggested motion might dispel concerns and assertions that vending cart operators do not collect State and Federal taxes. Section 5.65.030 titled *Regulatory Permit, Revocable Land Use Permit, And Fees Required* reads, “No person shall conduct business on any City sidewalk, without first obtaining a valid base business license and entering into a revocable land use permit for the use of City property, and paying the required fees. In addition to the base business license fee, the annual revocable land use permit payment shall be one hundred seventy five dollars (\$175.00).

Section F of Salt Lake City’s business license application form contains lines for a “Federal Tax Number” and a “State Sales Tax Number.” (Please see Attachment.) However, according to the Business Licensing Division, some businesses do not have the federal and state tax numbers when licenses are approved because the businesses have not yet applied for the numbers from State or Federal agencies. Nevertheless, Section F at least implies that the City expects to have the information on the business license application. The suggested motion would give sidewalk vendors a year to provide the information.

One issue the City Council may wish to consider is: Should a requirement to provide tax numbers on business license applications be applied to all businesses?

The second suggested motion reads: “I move that the City Council adopt the proposed ordinance with the following amendments to Section 5.65.175.A.2 titled *Operational regulations*: That the words “on the sidewalk” be deleted from the section and the words “fifty-foot radius” replace the words “twenty-five feet” and “twenty-five-foot area” so that the section reads in part: ‘All persons operating under a sidewalk vendor regulatory permit issued by the city shall comply with the following regulations: . . . Pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter in any form which is deposited by any person within a fifty-foot radius of the place of conducting business; and clean up all residue from any liquids spilled upon the sidewalk within said fifty-foot radius.’”

Council staff suggests the motion because while staff was researching sidewalk vending carts in the proposed secondary area, staff observed paper plates and soda cans on the ground

**ITEM D-1**

more than 25 feet away from vending carts. The litter clearly was the same kind of plates and soda cans used or purchased by customers of the vending carts.