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

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**DATE:** August 29, 2003  
**TO:** City Council Members  
**FROM:** Russell Weeks  
**RE:** Proposed Ordinance: Amendment to Temporary Use Section of the Zoning Ordinance Relating to Seasonal Item Sales (Snow Cone and Shaved Ice Structures) Pursuant to Petition No. 400-02-17.  
**CC:** Cindy Gust-Jenson, Rocky Fluhart, David Nimkin, Alison Weyher, Louis Zunguze, Gary Mumford, Doug Dansie

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This memorandum pertains to City Council consideration of a proposed ordinance to amend the Temporary Use section of the Zoning Ordinance relating to seasonal item sales (snow cones and shaved ice structures) pursuant to Petition No. 400-02-17. The City Council is scheduled to hold a public hearing on the proposed ordinance September 2.

### **POTENTIAL OPTIONS**

- Adopt the proposed ordinance.
- Do not adopt the proposed ordinance.
- Adopt the proposed ordinance but amend it to allow snow-cone and shaved-ice structures in districts zoned for Neighborhood Commercial (CN) use.
- Adopt a motion requesting that the Administration address the use of large windsocks as a form of advertising the presence of the structures in any review of the City's sign ordinance.

### **POTENTIAL MOTIONS**

- I move that the City Council adopt the proposed ordinance pursuant to Petition No. 400-02-17.
- I move that the City Council not adopt the proposed ordinance.
- I move that the City Council adopt the proposed ordinance pursuant to Petition No. 400-02-17 with the following amendment: that Paragraph K in Section 21A.42.070 that would allow snow-cone and shaved-ice huts as a temporary use in various zoning districts include districts zoned as Neighborhood Commercial (CN).
- I move that the City Council request that the Administration address the use of large windsocks as a form of advertising the presence of the structures be considered in any review or revision of the City's sign ordinances.

## **KEY ELEMENTS/DISCUSSION**

The proposed ordinance is a text change to the Zoning Ordinance and will require a public hearing before the City Council formally takes action on it.

The proposed ordinance would do three things:

- It would amend Section 21A.42.070.B to clarify that Christmas tree and other seasonal item sales are limited to 45 days per calendar year.
- It would enact a Paragraph K to Section 21A.42.070 to allow snow-cone and shaved-ice huts as a temporary use in districts zoned as Community Business (CB), Community Shopping (CS), Corridor Commercial (CC), General Commercial (CG), Sugar House Business District (CSHBD), Light Manufacturing (M-1), Heavy Manufacturing (M-2), Central Business District (D-1), Downtown Support District (D-2), Downtown Warehouse/Residential (D-3), Downtown Secondary Central Business District (D-4), Gateway Mixed Use District (GMU), Research Park (RP), Business Park (BP) and Mixed Use (MU). The spectrum of districts listed runs throughout Salt Lake City and would affect all City Council Districts.
- It would amend Section 21A.62.040 to include two new definitions, “Seasonal Item Sales” and “Snow cone and shaved ice hut.”

During an August 7 briefing session on the proposed ordinance, Council Members discussed whether to include districts zoned Neighborhood Commercial (CN) and Residential Business (RB). Based on Council staff notes and a review of the audio tape some Council Members indicated an interest in including CN districts in the proposed ordinance. However, at least one Council Member indicated reservations about including the CN districts. There did not seem to be sentiment for including the Residential Business districts during the August 7 discussion. One of the potential motions in this memorandum would allow inclusion of the CN districts in the proposed ordinance.

In addition, it came to City Council staff’s attention that some snow-cone stands use large windsocks to advertise their locations. The proposed ordinance, as written, would limit signage to that of the base zoning district (which generally would not include windsocks). The last sentence of the new section (21A.42.070.K) specifically prohibits inflated signs, banners and other signage exceeding the regulations of the zoning district.

According to the Planning Division, some snow cone huts that are presently operating have used blowers and windsocks, but the existing huts themselves were permitted on a temporary basis pending adoption of the permanent ordinance. A conscious decision was made by the Planning Division staff and Planning Commission to word the permanent ordinance to make sure that signage was consistent with the base zoning, which generally does not permit inflatable advertising devices. The intent is that snow cone huts follow the same sign rules as others in their respective zoning districts. If the ordinance is adopted as it was forwarded, windsocks and other inflatable advertising would not be allowed for snow cone huts if they are not allowed for others.

In discussions with the Planning Division it was suggested that the use of windsocks of that scale could be reviewed and addressed in a future revision of the City’s sign ordinance.

## **BACKGROUND**

The proposed ordinance addresses only temporary uses such as snow-cone and shaved-ice structures on private property.

According to the Administration's transmittal, temporary structures such as snow-cone huts historically have not been allowed in Salt Lake City. However, when the Zoning Ordinance was rewritten, language in the Temporary Uses section included a category titled "other seasonal item sales." Through administrative interpretation of the category, snow-cone huts have been allowed as "other seasonal item sales" for the last two or three years. In addition, 21A.42.070.B titled *Christmas Tree and Other Seasonal Item Sales* limits temporary uses "to a period not to exceed 45 days." According to the Administration, some interpretations of the clause have led to the renewal of seasonal item sales every 45 days.

The proposed ordinance would amend Section 21A.42.070.B to clarify that Christmas tree and other seasonal item sales are limited to 45 days per calendar year.

The ordinance also would add a new paragraph Section 21A.42.070 to allow snow-cone and shaved-ice huts as a temporary use in districts zoned as Community Business (CB), Community Shopping (CS), Corridor Commercial (CC), General Commercial (CG), Sugar House Business District (CSHBD), Light Manufacturing (M-1), Heavy Manufacturing (M-2), Central Business District (D-1), Downtown Support District (D-2), Downtown Warehouse/Residential (D-3), Downtown Secondary Central Business District (D-4), Gateway Mixed Use District (GMU), Research Park (RP), Business Park (BP) and Mixed Use (MU). The new paragraph also would allow sellers of snow cones and shaved ice to operate between May 15 and September 15 instead of limiting sales for 45 days in the calendar year. And it would require temporary buildings from which the snow cones or shaved ice would be sold to be either specific commercial models or their "equivalent, as determined by the zoning administrator."

In its transmittal, the Administration noted in several locations that most businesses involving selling snow-cones or shaved ice have said they hoped to locate temporary structures in the parking lots of other commercial businesses such as grocery stores.

Finally, the proposed ordinance includes in the definition of "Seasonal Item Sales" language that would allow "fresh farm produce, sold within the intermountain region harvest season" to be sold under Section 21A.42.070.B titled *Christmas Tree and other Seasonal Item Sales*. The definition makes clear that "Prepared food is not a seasonal item." According to the Administration, the current definition of "Seasonal Item Sales" was intended to allow the sale of seasonal "fresh farm produce." However, the original definition may not have been specific enough.