



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Review of City Code Pertaining to Alcoholic Beverages and City Sidewalk Encroachments for Seating

MEETING DATE: January 21, 1998

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council review Lodi Municipal Code §9.04.010 pertaining to alcoholic beverages and City sidewalks and provide staff direction on possible changes to the Code. Staff recommends that the Code be left as is.

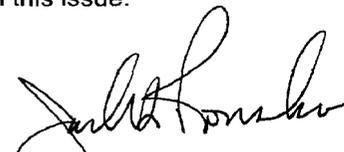
BACKGROUND INFORMATION: Staff has received a request from Mr. Fred Reynolds, owner and operator of Fred's Puff-N-Stuff and Stogies Lounge, to establish an outdoor seating area on Pine Street fronting these businesses. Because Stogies serves alcoholic beverages, the State Alcoholic Beverage Control requires that the area be fenced. However, Lodi Municipal Code §9.04.010 (Exhibit A) only permits such fencing and serving of alcohol at locations of "bona fide eating establishments". To allow this use, the Code would need to be changed. While staff does not recommend a change, we see two alternatives for changing the Code to accommodate the request should Council wish to do so:

1. Modify the restriction limiting locations to include "smoking lounges" or "retail tobacco" stores;
2. Eliminate the location restriction. This would allow practically all uses, including bars, to have outdoor seating.

The first alternative takes care of this specific request; however, staff is concerned about having to draw distinctions between this case and other businesses that may wish to pursue these lines of business in addition to their existing business. The second alternative, while eliminating the distinction, may lead to an excess of sidewalk "bars". In either alternative, adding the requirement of obtaining a use permit is recommended. This would provide a degree of public notice, review, and conditions not provided by the encroachment permit process. Recognizing the potential controversial nature of this change, staff is bringing the matter to the Council for preliminary discussion and direction.

This entire issue is related to the new State law prohibiting smoking in bars. Staff anticipates receiving requests for sidewalk encroachments for benches and other outdoor uses, excluding consumption of alcohol, to accommodate smokers. The City's encroachment ordinance does not specifically address this use, only in that "encroachments" require a permit issued by the Public Works Director. In the past, staff has brought such seating requests to the Council. The Council may also wish to comment on this issue.

FUNDING: None required.

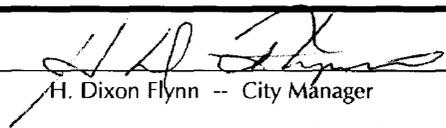


Jack L. Ronsko
Public Works Director

Prepared by Richard C. Prima, Jr., City Engineer
Attachment

cc: Mr. Fred Reynolds
Chamber of Commerce
Lodi Downtown Business Association
Street Superintendent

APPROVED: _____



H. Dixon Flynn -- City Manager

9.04.010

Chapter 9.04

**OFFENSES AGAINST PUBLIC
DECENCY**

accessible (with the exception of emergency exits or gates from the surrounding public sidewalk or right-of-way). (Ord. 1618 § 1, 1995; prior code § 15-5A)

Sections:

- 9.04.010** **Alcoholic beverage—
Open container in public.**
- 9.04.020** **Poolrooms and minors.**

9.04.010 **Alcoholic beverage—Open
container in public.**

No person shall drink or have in his possession an open container of any alcoholic beverage:

A. On any public street, sidewalk or other public way;

B. Within fifty feet of any public way while on private property open to public view without the express permission of the owner, his agent or the person in lawful possession thereof.

C. Nothing in this section shall prohibit the sale, possession or consumption of alcoholic beverages on a public right-of-way; provided, that all the following conditions are met:

1. A valid right-of-way encroachment permit for such premises has been obtained from the public works department,

2. The location upon which such alcoholic beverages are to be sold, consumed or possessed is adjacent to and operated as part of a bona fide eating establishment,

3. The premises are appropriately licensed by the state of California for such sale of alcoholic beverages,

4. The area of the public right-of-way upon which such alcoholic beverages are to be sold, possessed or consumed is completely surrounded by a fence or enclosure at least three feet high and not directly

CITY COUNCIL

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KEITH LAND
Mayor Pro Tempore
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CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6706
FAX (209) 333-6710

January 15, 1998

H. DIXON FLYNN
City Manager
ALICE M. REIMCHE
City Clerk
RANDALL A. HAYS
City Attorney

Mr. Fred Reynolds, Owner
Fred's Puff-N-Stuff and Stogies Cigar Lounge
228 and 230 West Pine Street
Lodi, CA 95240

Chamber of Commerce
Attn: Les Dabritz, Executive Director
P. O. Box 386
Lodi, CA 95241

Lodi Downtown Business Association
Attn: Alan Goldberg
c/o Farmers and Merchants Bank
P. O. Box 380
Lodi, CA 95241-0380

Lodi Downtown Business Association
Attn: Barbara McWilliams
c/o Poser's TV & Radio
208 South School Street
Lodi, CA 95240

SUBJECT: Review of City Code Pertaining to Alcoholic Beverages
and City Sidewalk Encroachments for Seating

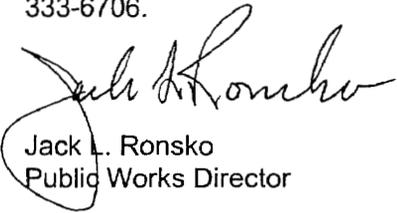
Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, January 21, 1998. The meeting will be held at 7 p.m. in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the regular calendar for Council discussion. You are welcome to attend.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Alice Reimche, City Clerk, at 333-6702.

If you have any questions about the item itself, please call Richard Prima, City Engineer, at 333-6706.


Jack L. Ronsko
Public Works Director

Enclosure
cc: City Clerk