



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-41

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June 5, 2007

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Section 5.40.065 relating to the sale or display of goods on the public sidewalk read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

Pursuant to your request of May 15, 2007, this office has prepared and submits the subject ordinance for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By 
MICHAEL J. MAIS
Assistant City Attorney

MJM:kjm
07-02591

REDLINED VERSION

5.40.010 Definitions.

“Applicant” means the person who makes application for a garage sale or estate sale permit. Each person who signs an application for a block sale permit is considered an applicant.

“Estate sale” means a garage sale at which the personal property of any deceased person by that person’s representative, not otherwise prohibited by this code, or any other law, is offered for sale, where such personal property is set out for public display and sale in any open garage, yard, or patio of any building or premises which contains one or more dwelling units.

“Garage sale” means the sale of or offering for sale the personal property of any person not otherwise prohibited by this code, where such personal property is set out for public display and sale in any open garage, yard, or patio of any building or premises which contains one or more dwelling units. “Garage sale” includes estate sale and multi family sale.

“Multi family sale” means a garage sale conducted at one or more single family residences, normally on the same street block or on adjacent intersecting street blocks, or a garage sale conducted at one or more units of a multi-family dwelling, sharing the same street address.

“Personal property” means the property of the person residing at the address where the garage sale is being conducted. “Personal property” does not include property that has been consigned to, or acquired by, such person for the purpose of resale. (Ord. C-7634 § 1, 1999: Ord. C-7461 § 9, 1997: Ord. C-6260 § 1 (part), 1986).

5.40.015 Only personal property to be sold.

Except for a person conducting an “estate sale” as defined in this chapter, no person shall offer for sale at a garage sale any property that is not the personal property of the permit applicant. (Ord. C-7634 § 6, 1999).

5.40.020 Permit required.

Every person engaged in operating a garage sale shall obtain a permit prior to commencement of the sale. For each permit issued, the applicant shall pay a fee as prescribed by resolution adopted by the city council. The permit fee shall be used to finance the cost of ensuring compliance with this chapter. (Ord. C 7876 § 1, 2003: Ord. C 7634 § 2, 1999: Ord. C 7461 § 9, 1997: Ord. C 6260 § 1 (part), 1986).

5.40.030 Frequency and term of permit.

A. Permits shall be issued according to street address. Except as authorized in section 5.40.080, permit applicants shall provide proof of residence at the address for which the permit is sought. For single-family dwellings, no more than two (2) permits shall be issued to any one street address in any one calendar year for any type of garage sale. For multi-family dwellings, no more than one permit shall be issued per street address per quarter, not to exceed four (4) within any one calendar year.

B. Each permit shall be for no more than three (3) consecutive days. In the event of inclement weather on any two (2) of those three (3) days, the applicant may apply within one week of the first date originally scheduled for the sale for a no cost replacement permit. The replacement permit will not be counted toward the annual limit for that street address. (Ord. C 7634 § 3, 1999: Ord. C 7461 § 9, 1997: Ord. C 6260 § 1 (part), 1986).

5.40.040 Impounded property.

Should property offered for sale at a garage sale be impounded by law enforcement personnel to determine ownership and that property subsequently be returned to the applicant, the applicant may apply for a replacement permit to dispose of that property. The replacement permit will not count toward the annual limit for the applicant's street address. (Ord. C 7634 § 4, 1999: Ord. C 7461 § 9, 1997: Ord. C 6260 § 1 (part), 1986).

5.40.050 Permit--Nontransferable.

A permit issued under the provisions of this chapter shall be nontransferable. (Ord. C 7461 § 9, 1997: Ord. C 6260 § 1 (part), 1986).

5.40.060 Display of permit.

The permit required under this chapter shall be conspicuously displayed on the premises where the garage sale is conducted. (Ord. C 7461 § 9, 1997: Ord. C 6260 § 1 (part), 1986).

5.40.065 Goods on Sidewalk Prohibited.

Permittees shall at all times comply with the provisions of Chapter 14.04 of this Code relating to the obstruction of streets and sidewalks. Permittee shall not use any public sidewalk, public street, or that space between the public sidewalk and curb commonly known as parkway, or any space above any portion thereof, for displaying for sale, or for any other purpose, any goods, articles, or other personal property.

5.40.070 Hours of garage sales.

Garage sales may only operate between eight o'clock (8:00) A.M. and three o'clock (3:00) P.M. (Ord. C 7634 § 5, 1999; Ord. C 7461 § 9, 1997; Ord. C 6260 § 1 (part), 1986).

5.40.075 Signs.

Each garage sale may be advertised by one sign, located on private property at the street address where the sale is conducted, not more than four feet (4') in height nor more than six feet (6') in area. Such sign must be removed at the end of the sale. No sign may be located on or fastened to any public property or any part of the public right-of-way. (Ord. C 7634 § 7, 1999).

5.40.080 Estate sales.

Estate sales, as defined in this chapter, shall be subject to all of the provisions of this chapter concerning garage sales, except that the person serving as the representative of the deceased person may apply for a permit and may conduct the sale at either the residence of the deceased or at the residence of the representative, and may sell the personal property of the deceased as otherwise permitted by state law. (Ord. C 7634 § 8, 1999).

5.40.085 Multi family sales.

Multi family sales, as defined in this chapter, shall be subject to all of the provisions of this chapter, except that the multi-family sale permit application shall include a list of all participating addresses and shall contain the signature of a resident of each of those addresses. Participating in a multi-family sale shall constitute one of the two (2) garage sales permitted at each street address during each calendar year for single-family dwellings, and as one of the one per quarter, not to exceed four (4) per calendar year per street address, for multi-family dwellings. (Ord. C 7634 § 9, 1999).

5.40.090 Infraction--Misdemeanor.

The first violation of any provision of this chapter shall be an infraction as provided in section 17 of the California Penal Code, and the penalty for the first such infraction shall be two hundred dollars (\$200.00). The second violation of any provision of this chapter shall also be an infraction, and the penalty for such violation shall be four hundred dollars (\$400.00). The third and subsequent incident of violation of any provision of this chapter shall be a misdemeanor, as defined in section 17 of the California Penal Code. (Ord. C 7634 § 10, 1999).

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING SUBSECTION 5.40.065
RELATING TO THE SALE OR DISPLAY OF GOODS ON
THE PUBLIC SIDEWALK

The City Council of the City of Long Beach ordains as follows:

Section 1. The Long Beach Municipal Code is amended by adding Section
5.40.065 to read as follows:

5.40.065 Goods on Sidewalk Prohibited.

Permittees shall at all times comply with the provisions of Chapter
14.04 of this Code relating to the obstruction of streets and sidewalks.
Permittee shall not use any public sidewalk, public street, or that space
between the public sidewalk and curb commonly known as parkway, or any
space above any portion thereof, for displaying for sale, or for any other
purpose, any goods, articles, or other personal property.

Section 2. The City Clerk shall certify to the passage of this ordinance by
the City Council and cause it to be posted in three (3) conspicuous places in the City of
Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
Mayor.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following votes:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

MJM:kjm 5/30/07 #07-02591