

**CITY OF SAN ANTONIO
OFFICE OF THE CITY ATTORNEY
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Martha Sepeda, Acting City Attorney

SUBJECT: Ordinance Amending Chapter 19 Article I of the City Code Concerning Solicitation of the Occupants of Motor Vehicles.

DATE: May 5, 2005

SUMMARY AND RECOMMENDATIONS

This ordinance amends Chapter 19, Article I of the City Code; adopting an exception to City Code section 19-8 to allow for the solicitation of newspapers from an off-roadway surface to the occupants of motor vehicles on public streets, and also provides a severability clause and an effective date.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

Section 19-8 of the San Antonio City Code prohibits someone from soliciting the occupants of motor vehicles unless they obtain a permit from the Chief of Police. The permit allows the holder to solicit employment, business or charitable contributions while standing on a traffic median, shoulder, improved shoulder, sidewalk, or the improved portion of the roadway from occupants of any vehicle on a roadway provided said person wears a florescent orange visibility vest, does not impede traffic, enters or remains in a roadway only while the controlling traffic signal prohibits vehicle movement. The permit is valid only once a year for a two day period that must fall within fifteen days of a nationally-recognized holiday. Permit applicants must obtain a one million dollar liability policy that insures the applicant, all persons who will be soliciting, and that names the City of San Antonio, its officers, employees, and elected representatives as an additional insureds. The constitutionality of the current city regulations was challenged by the San Antonio Express-News in a lawsuit, *San Antonio Express-News v. City of San Antonio*, Cause No. 99-CI-01933. Their contention in the suit is that the current ordinance, as applied to newspapers, violates the First and Fourteenth Amendments. There is currently a temporary injunction issued by the court that enjoins the City from interfering with the Express-News's sale of newspapers to vehicle occupants.

POLICY ANALYSIS

Passage of the ordinance will resolve the issues in the lawsuit. As a consequence of its passage, this ordinance will help minimize inherent safety risks by requiring the solicitors to adhere to the

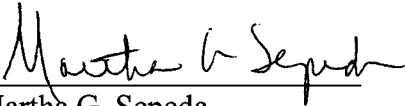
same standards as properly licensed vendors. Under the amendment, the newspaper vendors will only be allowed to stand on a traffic median, shoulder, improved shoulder, sidewalk, or the improved portion of the roadway to sell the paper. They will be allowed to collect payment from the motorists so long as they do not impede traffic to do so. Additionally the amendment's requirement that the newspaper obtain an insurance policy that not only covers the vendors, but also the City of San Antonio, its officers, employees, and elected representatives, will help protect the city from liability.

FISCAL IMPACT

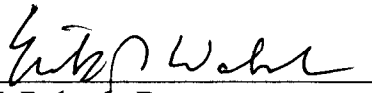
None

COORDINATION

This item has been coordinated with the San Antonio Police Department and the City Attorney's Office.



Martha G. Sepeda
Acting City Attorney

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J. Rolando Bono
Interim City Manager