

# Ordinance Fact Sheet

TO:

CITY COUNCIL

DATE:

August 10, 2009

FROM:

**CITY ATTORNEY** 

**SUBJECT:** 

REPEAL OF HANDBILL DISTRIBUTION ORDINANCE

## **TITLE OF PROPOSED ORDINANCE**

ORDINANCE OF THE CITY OF PASADENA REPEALING CHAPTER 9.44 OF THE PASADENA MUNICIPAL CODE (DISTRIBUTION OF UNSOLICITED WRITTEN MATERIAL)

#### **PURPOSE OF ORDINANCE**

This ordinance repeals the existing handbill ordinance in Chapter 9.44 of the Pasadena Municipal Code.

## REASON WHY LEGISLATION IS NEEDED

In 1994, the California Court of Appeal struck down a Fresno ordinance that restricted door-to-door distribution of specified categories of written materials in City of Fresno v. Press Communications, Inc., 31 Cal.App.4th 32 (1994). The court found the ordinance to be impermissible content regulation, violating the distributors' free speech rights. At the time, Pasadena's handbill ordinance was similar to Fresno's. Therefore, in 1998, informed by the Press Communications case, the City Council revised the handbill ordinance by regulating distribution by way of a refusal registry ("do-not-deliver" list) in Chapter 9.44 of the PMC. The refusal registry was similar to one that had been in place in the City of Beverly Hills for several years at the time. Other later-adopted types of refusal registries were upheld by courts in subsequent years, including do-not-call lists established by the federal government and the states of North Dakota and Indiana. In October 1999, U.S. District Judge William Keller issued a permanent injunction prohibiting Pasadena from enforcing the handbill distribution ordinance. Since then, the City has not enforced the existing handbill distribution ordinance in Chapter 9.44.

The proposed ordinance reflects the Council's direction at its July 27, 2009 meeting to formally repeal the existing Chapter 9.44 of the Pasadena Municipal Code.

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## PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED

No programs, or departments or groups are affected. This ordinance merely repeals a handbill distribution ordinance that the City has been enjoined from enforcing.

### FISCAL IMPACT

Adoption of this ordinance will have no fiscal impact.

## **ENVIRONMENTAL REVIEW**

This proposed ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines § 15061, as it is covered by the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment.

Respectfully submitted,

Michele Beal Bagneris

City Attorney

Prepared by:

Jawan N. Kad

Assistant City Attorney

Concurred by:

Michael F. Beck City Manager

ORDINA	ANCE NO.
CHAPTER 9.44 OF THI	HE CITY OF PASADENA REPEALING E PASADENA MUNICIPAL CODE NSOLICITED WRITTEN MATERIAL)
The People of the City of	Pasadena ordain as follows:
SECTION 1. The City Co	ouncil finds that this ordinance is exempt from the
California Environmental Quality	Act ("CEQA") pursuant to State CEQA Guidelines
§ 15061, as it is covered by the go	eneral rule that CEQA only applies to projects which
nave the potential for causing a si	ignificant effect on the environment.
SECTION 2. Chapter 9.4	4 of Title 9 of the Pasadena Municipal Code entitled
Distribution of Unsolicited Writ	ten Material" is hereby repealed in its entirety.
SECTION 3. This ordina	nce shall take effect 30 days from its publication.
	, day of, 2009.

## I HEREBY CERTIFY that the foregoing ordinance was adopted by the City

Council of the City of Pasadena at its meeting h	eld this day of
, 2009, by the following vot	te:
AYES:	
NOES:	
ABSENT:	
ABSTAIN:	
Date: Published:	Mark Jomsky, CMC City Clerk
APPROVED AS TO FORM:  Jawan N. Rad Assistant City Attorney	