

Agenda Report

TO: CITY COUNCIL

DATE: MARCH 30, 1998

FROM: CITY MANAGER

SUBJECT: DISTRIBUTION OF THROW AWAY HANDBILLS IN
RESIDENTIAL ZONES AND THE REMOVAL OF DECORATIVE
BANNERS FROM PUBLIC PROPERTY

RECOMMENDATION:

It is recommended that the City Council direct the City Attorney to draft ordinances amending Pasadena Municipal Code Chapter 5.20 of Title 5 regarding advertising in public places, Chapter 9.44 Title 9 regarding the distribution of unsolicited written material, and Chapter 12.15 Title 12 regarding the removal of decorative banners from public property.

EXECUTIVE SUMMARY:

The purpose of the ordinance revisions is to mitigate the negative impacts generated by the distribution of unsolicited written material and the failure of persons to remove decorative flags, emblems, banners, bunting, shrubbery and other similar devices authorized for display by a temporary permit.

BACKGROUND AND DISCUSSION:

I. Distribution of Unsolicited Written Material

For quite some time citizens have been complaining about the proliferation and subsequent accumulation of commercial handbills on lawns, driveways and porches. Recently those handing out such material come onto the property and fasten the handbill to the door or the ad is in a door hanger format. The complaints take three forms. The overwhelming issue is litter. The sheer volume of the material creates a litter problem which adversely impacts neighborhoods aesthetically. Property values typically decline in areas plagued by litter. It is a nuisance to both the homeowner/resident and the City, who both undertake very extensive clean up efforts to rid the streets of the litter.

Next in order of magnitude is the invasion of privacy represented by these unwanted and constant trips onto the property to leave the handbill. Lastly, handbill material can accumulate without the property owners' control when they are out of town even for a

2 City Council

few days. Residents *feel* that such piles of handbills are an open invitation to burgle the residence since these items indicate no one is home. Further, residents *believe* that, in some cases, those handing out the material are putative burglars using handbill distribution as a pretext for "casing the joint" for a future burglary.

Distribution is typically done by a professional distributor on behalf of a local business or by individuals that are offering their services (lawn mowing, window washing, baby-sitting, etc.).

Currently, Pasadena Municipal Code ("PMC") Section 5.20.070 regulates distribution of handbills and other advertising material on private property. The current ordinance only prohibits commercial handbills, exempting political campaign material and charitable solicitation material. Based on the appellate court decision City of Fresno v. Press Communications, Inc., 36 Cal. Rptr. 2d 456 (1994), the City Attorney's Office has concluded that the provisions of PMC Section 5.20.070 probably would not withstand judicial scrutiny. The ordinance struck down in the Fresno case was identical to Pasadena's provisions and the court invalidated it on the grounds that it was a content-based regulation which violated the First Amendment. Accordingly, if the City desires to regulate handbills, all handbill distribution on private property would need to be regulated, without regard to content.

One way to address the problem is to establish a system in which a "Refusal List" is maintained by the City in the Business and License Division. A data base would be maintained by the city which contains a listing of those who submit a written request to the City indicating their desire not to receive unsolicited written material. Distributors of this material could be required to obtain and pay for a copy of the list at the time they obtain a business license. The distributors could also be required to carry the list on their person when distributing the material. For those small scale distributors or those who would not be required to obtain a business license, a permit system could be instituted to ensure that those persons obtain the list. The permit could not be discretionary and the fee for the permit could not exceed the actual cost of duplicating the list.

As proposed, violation of the ordinance would constitute an infraction of the proposed ordinance punishable by a fine starting from \$100 with graded increases up to \$500 for each violation.¹ In the future this would be appropriately subject to an administrative penalty violation for which the fines would range from \$100 to \$1,000 for each violation.

¹ Implementation of the administrative penalty is contingent upon creation and approval by the City Council of an administrative citation ordinance policy being proposed by Planning and Permitting .

3 City Council

II. Removal of Decorative Banners

There have also been complaints regarding failure to remove decorative flags, banners and similar items authorized for display on public property by a temporary permit. Under Chapter 12.15 of the Pasadena Municipal Code, the city manager is authorized to issue temporary permits to those in charge of festivals or similar events for display of banners in public areas. Such posting is only permitted in the locations described in the permit, and only for a period no longer than five (5) days after the event is over.

The proposed ordinance imposes penalties for failure to remove such signs, banners and similar devices by the time required to be removed as stated in the temporary permit. Violators would be subject to a fine an amount equal to the city's actual costs of removing the items authorized by the temporary permit. Further, violators would not be able to obtain another temporary permit for display of such devices until the fine is paid in full. It is expected that imposition of these fines will result in prompt removal of such signs.

With the exception of signs, banners and similar devices erected by a public officer or employee or those authorized pursuant to a temporary permit issued by the city, no signs or handbills may be posted on public property. This prohibition is contained in Section 12.15.010, which is unchanged by the proposed ordinance.

Accordingly, the city law which prohibits posting of any kind of sign on public property such as lampposts, walls, trees, poles, streets or sidewalks remains in effect. Violation of Section 12.15.010 is a misdemeanor.

POLICY CHANGE:

Attached are draft policy changes to the ordinances which regulate the distribution of handbills and the removal of banners and other advertisements authorized by temporary permits. The proposed changes enhance the City's capacity to enforce municipal codes and better regulate advertising in public place or way.

WORKLOAD IMPACT

The proposed Handbill Ordinance will require further analysis with respect to enforcement procedures, however, Planning & Permitting has submitted a best guess estimate of the work load impact. This estimate is based on a 10% response to the announcement of participation on a refusal list.

4 City Council

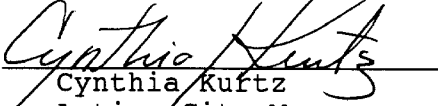
It is projected that compliance to the amended ordinance will take place within three months of implementation. There will be no blanket marketing of the refusal list option. Neighborhood Associations will be informed of the ordinance revisions and the refusal list option. Based upon these assumptions additional staff will be not be required for code enforcement or maintenance of the refusal list. The City Manager is recommending this approach to enforcement with ongoing assessment of compliance.

FISCAL IMPACT:

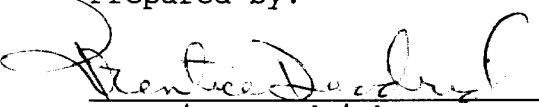
Revenues generated by license/permit fees should cover the entire cost for staff needed to update and monitor the refusal list which will be created by the adoption of the proposed ordinance changes.

There would be no fiscal impact on the general fund for changing this amendment. Code enforcement and municipal services would use staff currently available to implement the changes in the ordinance.

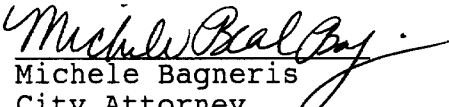
Respectfully submitted,

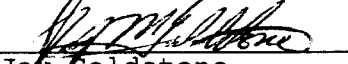

Cynthia Kultz
Acting City Manager

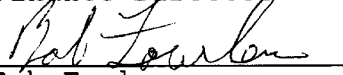
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