

**City of Brisbane  
Agenda Report**

Date: City Council Meeting of August 20, 2015

To: Mayor and City Council

From: Michael H. Roush, City Attorney  
Teresa L. Stricker, Deputy City Attorney

Subject: Regulations Related to Door-to-Door Solicitation and Businesses Publishing or Selling Newspapers in Brisbane

**CITY COUNCIL GOALS**

To ensure the efficient expenditure of City resources.

To provide general policy guidance and direction to the Health and Safety Committee, City Attorney and staff as the Committee explores possible amendments to the City's existing regulations and business licensing requirements governing door-to-door solicitation and those publishing or selling newspapers in Brisbane.

**PURPOSE**

The purpose of this item is to update the Council about legislation the Health and Safety Committee is exploring that, if adopted by the full Council, would amend existing regulations governing door-to-door solicitation and the business license requirements for those publishing and selling newspapers in Brisbane. The Committee, staff and the City Attorney seek general policy guidance from the full Council at this juncture before expending additional City resources on legal services on these issues.

**RECOMMENDATION**

Consider whether to authorize the Health and Safety Committee to continue to explore legislation (1) to amend existing regulations governing door-to-door solicitation to address safety concerns about door-to-door solicitors coming to homes in Brisbane, and (2) requiring those publishing, selling or soliciting advertising for newspapers in Brisbane to obtain a business license and pay a business license tax.

**BACKGROUND**

**A. Brisbane's Current Law**

Chapter 9.36 of the Brisbane Municipal Code generally prohibits the door-to-door selling of goods at private residences without the owner or occupier's invitation. (BMC § 9.36.010.) Violations of the ordinance are punishable as infractions. (BMC § 9.36.050.)

The ordinance does not apply to vendors who have obtained a valid business license under Chapter 5.12 of the Municipal Code (BMC § 9.36.020). Callers selling regularly-published newspapers or advertising or subscriptions for such newspapers are not subject to the ordinance (BMC § 9.36.040) In fact, those

selling or publishing newspapers at any location within the City are not subject to the City's business license requirements. (BMC § 5.12.040.)

Chapter 9.36 does not apply to those who call for purposes other than selling goods or services, including, for example, purposes related to religion, politics, advocacy or charitable contributions. But charitable and nonprofit organizations that *sell* goods or services door-to-door must first obtain a business license, although charitable and nonprofit organizations need not pay the City's business license tax. (BMC § 5.12.040.)

## **B. Status of Committee Considerations**

The Committee began considering changes to the City's existing regulations in response to safety concerns raised in response to callers coming to homes often after dark purporting to sell magazine subscriptions or other goods or services.

In response, the Committee has considered a number of possible alternatives to help reduce these safety concerns. These include:

- Education and enforcement options in circumstances where private residents choose to maintain a "No Solicitation" sign on their private property.
- Restricting door-to-door sales to certain times of day.
- Requiring criminal background checks for those who apply for a license to sell goods or services door-to-door.
- Eliminating the "newspaper" exemptions currently set forth in both the City's Solicitation Ordinance and the City's Business License Tax Ordinance to require those who solicit door-to-door to sell advertising or subscriptions for newspapers, as well as those who publish or sell newspapers elsewhere in the City, to obtain a business license and pay the applicable business tax.

The Committee asked the City Attorney to draft legislation that would (1) restrict door-to-door solicitation to the hours of 8 a.m. to 6 p.m. daily during standard daylight time and 8 a.m. to 8 p.m. daily during daylight savings time, and (2) eliminate the newspaper exemptions currently set forth in Chapters 9.36 and 5.12.

The Committee decided against legislation that would impose screening or criminal background checks on those seeking a license to sell door-to-door as some cities have done. Conducting criminal background checks would delay staff's processing of business licensing applications considerably because the City does not currently have the capacity to conduct criminal background checks internally.

## **DISCUSSION AND FISCAL IMPACT**

Shortly after the Committee asked the City Attorney to draft the legislation discussed above, the Council communicated a desire to adopt a policy requiring the full Council to approve projects requiring any substantial amount of legal work requested by a Committee or an individual Council member. The Council will be considering such a policy at one of its future regular meetings.

In light of the amount of legal work previously spent advising the Committee about various options to address safety concerns related to door-to-door solicitation, the Committee, the City Attorney and staff seek general policy guidance from the full Council before the City Attorney drafts the legislation requested by the Committee and the Committee resumes its work in this area.

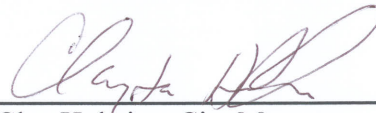
We anticipate that it would take approximately 8 hours of attorney time to draft the legislation requested by the Committee, attend one additional Committee meeting to address any further revisions needed to the policies reflected in the draft legislation, finalize the legislation, prepare an agenda report, and attend two Council meetings on this issue.

Should, however, the Committee or Council wish to consider additional amendments beyond those the Committee has currently requested, or Council ask a different committee to consider any amendments proposed to the City's business license ordinance, the amount of attorney time required would increase.



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Teresa L. Stricker, Deputy City Attorney



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Clay Holstine, City Manager