



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
September 7, 2010

Honorable Members of the
Law & Legislation Committee

Subject: Ordinance: Amendment to Solicitor and Canvasser Ordinance (SCC 5.116)

Location/Council District: Citywide

Recommendation:

1) Approve proposed amendments to the existing Solicitor and Canvasser Ordinance (Sacramento City Code Chapter 5.116) to increase the penalty for soliciting and canvassing without a license to a misdemeanor violation rather than an infraction and to require solicitors and canvassers to display their licenses on the exterior of their clothing between the waist and neck area, and 2) forward to the full City Council for adoption.

Contact: Alisa Buckley, Sergeant, Office of the Chief, (916) 808-0832 for Detective Mike Nichols, Office of the Chief, Criminal Intelligence Unit (916) 808-0721.

Presenters: Alisa Buckley, Sergeant, Office of the Chief, (916) 808-0832; Detective Mike Nichols, Office of the Chief, Criminal Intelligence Unit (916) 808-0721.

Department: Police

Division: Office of the Chief

Department ID: 11001011

Description/Analysis

Issue: In the interest of preventing crimes within the City of Sacramento, staff is respectfully requesting that the existing solicitor and canvasser ordinance be revised. Currently, solicitors and canvassers are able to obtain solicitor and canvasser licenses by filling out applications and submitting a \$500 bond. Individuals who solicit and canvass without a license are currently guilty of an infraction under Section 5.116 of the Sacramento City Code. The proposed revisions to the ordinance would make it a misdemeanor to solicit or canvass without a license. The proposed revisions would also require solicitors and canvassers to have their licenses displayed on the exterior of their clothing between the waist and neck area.

Committee/Commission Action: None

Policy Considerations: This modification would amend Sacramento City Code Section 5.116.020 to require solicitors within the city to display their licenses on the exterior of their clothing, between the waist and neck. This modification would amend Sacramento City Code 5.116.080 by deleting the term "permit" entirely. This modification would also amend Sacramento City Code Section 5.116.090 by increasing the penalty for soliciting violations from infractions to misdemeanors.

This modification would further amend Sacramento City Code Section 5.116.120 to require that all canvassers within the city must be in possession of licenses which must be displayed on the exterior of their clothing, between the waist and neck. Sacramento City Code Sections 5.116.120, 5.116.130, and 5.116.140 would be modified to include the use of the term "license" and the deletion of the term "permit." Finally, this modification would amend Sacramento City Code Section 5.116.150 to increase the penalty for canvasser violations from infractions to misdemeanors.

Environmental Considerations:

This report is not considered a project and is therefore exempt from the California Environment Quality Act (CEQA), CEQA Guidelines Sections 15061(b) and 15378(b)(3).

Rationale for Recommendation:

Unlicensed soliciting and canvassing continues to be a large scale problem in the City of Sacramento and the Police Department continues to respond to calls for service from citizens regarding people soliciting door-to-door. Sacramento City Codes governing soliciting and canvassing have proven difficult to enforce as violations are classified only as infractions. No licenses have been issued in over two years yet individuals continue to solicit and canvass in the City of Sacramento.

As noted previously, these violations are currently only infractions. Enforcement requires that the violation be committed in an officer's presence or that a citizen's arrest be completed. Though this is also true of misdemeanor crimes, the enforcement of misdemeanors allow officers to better identify individuals and provides police officers with the discretion to take someone into custody or issue a citation and release them.

The ability to arrest for a misdemeanor violation of the Sacramento City Code will aid officers in dealing with the types of solicitors and canvassers that have become prevalent in the City of Sacramento as well as in cities and counties throughout the country. These solicitors and canvassers are often found to be working in groups of people (typically five to 20) who are dropped off in neighborhoods by company vans. These companies run "sales crews" who hire individuals from all over the country to market publications for publishers and clearinghouses. Many of these individuals possess extensive criminal arrest histories and are on active probation or parole. The majority of these individuals do not carry identification and furnish the police officers who contact them with false information.

Residential burglaries and thefts have become crimes of opportunity for people who travel through local neighborhoods under the guise of selling magazine subscriptions or products. Sacramento Police Officers have responded to numerous calls for service from citizens regarding door-to-door sales people entering side yards and backyards after knocking on the front door and receiving no answer.

Requiring solicitors and canvassers to wear their issued City of Sacramento licenses on the exterior of their clothing between their waist and neck area will assist police officers who are responding to calls for service. Enforcement action may be taken without a citizen's arrest, at the officer's discretion, when the license is not being worn openly in the officer's presence, and when there is evidence of canvassing or soliciting. Another advantage to the requirement of a visible license is that citizens will be better able to identify those individuals who are properly licensed solicitors and canvassers and distinguish them from non-licensed individuals.

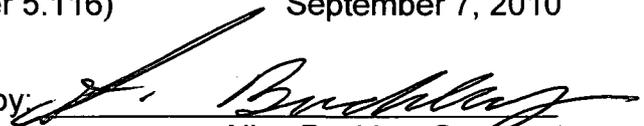
The passage of these modifications to the Sacramento City Codes governing canvassing and soliciting will better ensure public safety by providing the citizens of Sacramento and the Police Department with the tools to identify legitimate solicitors and carry out enforcement action when necessary. In doing so, staff maintains that there is an increased likelihood that individuals who are looking to commit residential burglaries and thefts may be deterred from committing these crimes.

Financial Considerations:

The proposed amendments to the solicitor and canvasser ordinance have no current fiscal effects.

Emerging Small Business Development (ESBD): None.

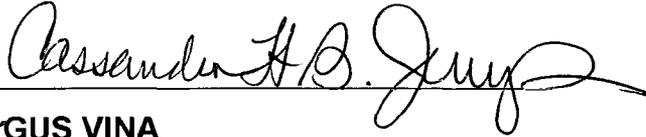
Respectfully Submitted by:


Alisa Buckley, Sergeant

Approved by:


Rick Brazier
Chief of Police

Recommendation Approved:



 **GUS VINA**
Interim City Manager

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Clean Copy of Ordinance

Chapter 5.116 SOLICITORS AND CANVASSERS

Article I Solicitors Generally

5.116.010 "Solicitor" defined.

For the purposes of this article, a solicitor is defined to be any person who goes from house to house or from place to place in the city, selling, or taking orders for, or offering to sell or take orders for goods, wares or merchandise, or any article for future delivery, or for services to be performed in the future, or for the making, manufacturing or repairing of any article or thing whatsoever, for future delivery; provided, however, that this section shall apply only to solicitors who demand, accept or receive payment or deposit of money in advance of final delivery. (Prior code § 10.01.010)

5.116.020 License—Required.

- A. No person shall engage in the business of solicitor within the city without first obtaining a license therefor. (Prior code § 10.01.020)
- B. No person shall engage in the business of solicitor within the city without having their license displayed on the exterior of their clothing, between the waist and neck.

5.116.030 License—Application.

Any person desiring a license to engage as a solicitor within the city shall make application therefor to the city controller on forms to be provided, stating the name and address of the applicant, the name and address of the person whom he or she represents and the kind of goods offered for sale, or the kind of services to be rendered. (Prior code § 10.01.030)

5.116.040 Bond—Required—Amount—Conditions.

The application for a solicitor's license shall be accompanied by a bond in the penal sum of five hundred dollars (\$500.00), executed by a surety company or by two responsible freeholders residing in the city, or in lieu thereof, a cash bond of equal amount, conditioned upon the making of final delivery of the goods ordered, or services

to be performed, in accordance with the terms in such order or failing therein, that the advance payment on such order shall be refunded. (Prior code § 10.01.040)

5.116.050 Bond—Period of effectiveness.

All solicitors' bonds shall remain in full force and effect, and in case of cash deposit, such deposit shall be retained by the city for a period of ninety (90) days after the expiration of the license, unless sooner released by the city council. (Prior code § 10.01.050)

5.116.060 Bond—Right of action on bond.

Any person aggrieved by the action of any solicitor shall have a right of action on the bond for the recovery of money or damages, or both. (Prior code § 10.01.060)

5.116.070 Orders to be in writing—Copy to purchaser.

All orders taken by solicitors shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser. (Prior code § 10.01.070)

5.116.080 Application fees.

In order to defray the costs associated with the administration of the license provisions of this article and Article II of this chapter, a nonrefundable fee established by resolution of the city council shall accompany every application for a license under this article or Article II of this chapter. This fee shall be in addition to any fee imposed by Chapter 3.08 of this code. (Prior code § 10.01.071)

5.116.090 Violation—Penalty.

Any person violating any provision of this article is guilty of a misdemeanor. (Prior code § 10.01.072)

Article II Magazine, Etc., Canvassers

5.116.100 Purpose of article.

The declared purpose of the provisions of this article is to prevent criminally inclined persons from going from house to house in the city, representing themselves to be canvassers for newspapers, magazines, periodicals, books and all other publications, and by reason of such pretense informing themselves as to the possibility of committing burglary or larceny at the premises so visited, thereby increasing and facilitating the commission of such crimes. (Prior code § 10.02.080)

5.116.110 “Canvassers” defined.

For the purposes of this article, the term “canvassers” is defined to mean any person not having an established place of business in the city, who, for himself or herself, or as agent for another, goes from place to place, or from house to house, in the city, soliciting orders or subscriptions for, or selling or disposing of newspapers, magazines, periodicals, books and all other publications, whether collecting advance payments on such subscriptions or sales, or not. (Prior code § 10.02.090)

5.116.120 License—Required.

- A. No person shall engage in the business of canvasser within the city without first obtaining a license therefor.
- B. No person shall engage in the business of canvasser within the city without having their license displayed on the exterior of their clothing, between the waist and neck area.

5.116.130 License—Written application.

To obtain a license, such canvasser shall appear personally before the Chief of Police and file a written application for such license, giving the name and address of the applicant and such other information as the chief of police shall require. (Prior code § 10.02.110)

5.116.140 License—Applicant must be the publisher or his or her agent.

A license shall be issued only to the publisher of the publication for which the license is sought, or the duly authorized agent of such publisher, which authority shall be evidenced by an instrument, in writing, or by other evidence satisfactory to the Chief of Police. (Prior code § 10.02.120)

5.116.150 Violation—Penalty.

Any person violating any provision of this article is guilty of a misdemeanor. (Prior code § 10.02.130)

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5.116.080 Application fees.

In order to defray the costs associated with the administration of the permit and license provisions of this article and Article II of this chapter, a nonrefundable fee established by resolution of the city council shall accompany every application for a license or permit under this article or Article II of this chapter. This fee shall be in addition to any fee imposed by Chapter 3.08 of this code. (Prior code § 10.01.071)

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Any person violating any provision of this article is guilty of an infraction or misdemeanor. (Prior code § 10.01.072)

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For the purposes of this article, the term "canvassers" is defined to mean any person not having an established place of business in the city, who, for himself or herself, or as agent for another, goes from place to place, or from house to house, in the city, soliciting orders or subscriptions for, or selling or disposing of newspapers, magazines, periodicals, books and all other publications, whether collecting advance payments on such subscriptions or sales, or not. (Prior code § 10.02.090)

5.116.120 PermitLicense—Required.

- A. No person shall engage in the business of canvasser within the city without first obtaining a license therefor.
- B. No person shall engage in the business of canvasser within the city without having their license displayed on the exterior of their clothing, between the waist and neck.

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~~It is unlawful for any canvasser to canvass within the city without having first procured a written permit from the chief of police, authorizing the same. (Prior code § 10.02.100)~~

5.116.130 PermitLicense—Written application.

To obtain a permitlicense, such canvasser shall appear personally before the chief of police and file a written application for such permitlicense, giving the name and address of the applicant and such other information as the chief of police shall require. (Prior code § 10.02.110)

5.116.140 PermitLicense—Applicant must be the publisher or his or her agent.

A permit-license shall be issued only to the publisher of the publication for which the permit-license is sought, or the duly authorized agent of such publisher, which

authority shall be evidenced by an instrument, in writing, or by other evidence satisfactory to the chief of police. (Prior code § 10.02.120)

5.116.150 Violation—Penalty.

Any person violating any provision of this article is guilty of an infraction misdemeanor. (Prior code § 10.02.130)