

JD
Item No. 32
05/05/05
revised 05/06/05

AN ORDINANCE 100823

AMENDING 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; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the Chapter 19, Article I, Section 19-8 of the City Code prohibits the solicitation of occupants of vehicles with some exceptions; and

WHEREAS, the City Council has determined that certain amendments to Chapter 19, Article I, Section 19-8 of the City Code are necessary; and

WHEREAS, the City Council finds that it has a governmental interest in protecting the general welfare, health, safety, and order of the citizens of the City; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Section 19-8 of the City Code of the City of San Antonio is hereby amended as follows to add the following provisions:

(i) Notwithstanding the other provisions of §19-8, § 16-227, § 16-240 or any other provision of the City Code, a person sixteen (16) years of age or older may solicit the sale of newspapers to occupants of motor vehicles from sidewalks, walkways, raised medians, islands and other off-roadway surfaces and may deliver the newspaper to any such occupant who responds to the solicitation in order to complete the sales transaction so long as doing so does not impede traffic flow and provided that such person wears a fluorescent orange visibility vest. The owner and publisher of the newspaper will be responsible for periodically monitoring the activity of any such solicitor under the age of eighteen (18), such monitoring to be done by an agent or employee of the newspaper who is at least twenty-one (21) years of age. Any solicitor under the age of eighteen (18) must have the consent of a parent or adult having custody of the child.

(j) The owner and publisher of any newspaper distributed pursuant to paragraph (i) of this section shall maintain at its sole expense insurance coverage (1) that is written by an insurance company with an A-or better rating by AM Best and that is submitted and licensed to do business in the State of Texas; (2) that is in full force and effect at any time sales and distribution are being conducted pursuant to Section 19-8(i); (3) that provides One Million Dollar (\$1,000,000.00) of liability coverage per occurrence; (4) that insures the newspaper and all persons who will be selling and distributing on its behalf; (5) that names the City of San Antonio, its officers, employees and elected representatives as additional insures; (6) that provides that any insurance or self-insurance maintained by the City shall apply in excess of and not contribute with it; and (7) that is written on an occurrence basis. The owner and publisher shall file and keep current a certificate of insurance signed by an agent authorized to bind coverage indicating that the owner and publisher has obtained the aforementioned insurance coverage, with the chief of police.

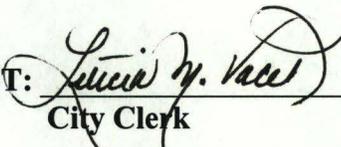
SECTION 2. Severability. If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or sets of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereby, and all provisions of this Ordinance are declared to be severable for that purpose.

SECTION 3. The City Clerk of the City of San Antonio, Texas, is hereby directed to publish this ordinance in a newspaper published in the City of San Antonio, Texas as authorized by the City Charter of the City of San Antonio.

SECTION 4. This Ordinance shall become effective ten (10) days after the date of passage.

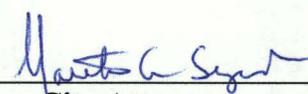
PASSED AND APPROVED on this the 5th day of May, 2005.

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney


MAYOR
EDWARD D. GARZA

MEETING OF THE CITY COUNCIL

| |
|---|
| ALAMODOME |
| ASSET MANAGEMENT |
| AVIATION |
| CITY ATTORNEY |
| MUNICIPAL COURT |
| REAL ESTATE (FASSNIDGE) |
| REAL ESTATE (WOOD) |
| RISK MANAGEMENT |
| CITY MANAGER |
| SPECIAL PROJECTS |
| CITY PUBLIC SERVICE - GENERAL MANAGER |
| CITY PUBLIC SERVICE - MAPS AND RECORDS |
| CODE COMPLIANCE |
| COMMERCIAL RECORDER |
| COMMUNITY INITIATIVES |
| CONVENTION AND VISITORS BUREAU |
| CONVENTION CENTER EXPANSION OFFICE |
| CONVENTION FACILITIES |
| COUNCIL OFFICES |
| CULTURAL AFFAIRS |
| CUSTOMER SERVICE/311 SYSTEM |
| DEVELOPMENT SERVICES |
| HOUSE NUMBERING |
| LAND DEVELOPMENT SERVICES |
| TRAFFIC & DRAINAGE PLAN REVIEW |
| ECONOMIC DEVELOPMENT |
| ENVIRONMENTAL SERVICES |
| SOLID WASTE |
| EXTERNAL RELATIONS |
| PUBLIC INFORMATION OFFICE |
| FINANCE - DIRECTOR |
| FINANCE - ASSESSOR |
| FINANCE - CONTROLLER |
| FINANCE - GRANTS |
| FINANCE - PUBLIC UTILITIES SUPERVISOR |
| FINANCE- TREASURY |
| FIRE DEPARTMENT |
| HOUSING AND COMMUNITY DEVELOPMENT |
| HUMAN RESOURCES (PERSONNEL) |
| INFORMATION SERVICES |
| INTERNAL REVIEW |
| INTERNATIONAL AFFAIRS |
| LIBRARY |
| MANAGEMENT & BUDGET (OFFICE OF) OMB |
| MAYOR'S OFFICE |
| METROPOLITAN HEALTH DISTRICT |
| MUNICIPAL CODE CORPORATION |
| MUNICIPAL COURT |
| NEIGHBORHOOD ACTION |
| PARKS AND RECREATION |
| MARKET SQUARE |
| YOUTH INITIATIVES |
| PLANNING DEPARTMENT -NEIGHBORHOOD PLNG; URBAN DESIGN/HISTORIC PRESERVATION |
| DISABILITY ACCESS OFFICE |
| POLICE DEPARTMENT |
| GROUND TRANSPORTATION |
| PUBLIC WORKS DIRECTOR |
| CAPITAL PROJECTS |
| CENTRAL MAPPING |
| ENGINEERING |
| PARKING DIVISION |
| REAL ESTATE DIVISION |
| TRAFFIC ENGINEERING |
| PURCHASING AND GENERAL SERVICES |
| SAN ANTONIO WATER SYSTEMS (SAWS) |
| VIA |

AGENDA ITEM NUMBER: 32
 DATE: MAY 5 2005
 MOTION: Castro/Haass
 ORDINANCE NUMBER: 100823
 RESOLUTION NUMBER: _____
 ZONING CASE NUMBER: _____
 TRAVEL AUTHORIZATION: _____

| NAME | ROLL | AYE | NAY |
|--|------|-----|-----|
| ROGER O. FLORES JR. District 1 | | | |
| JOEL WILLIAMS District 2 | | | |
| RON SEGOVIA District 3 | | | |
| RICHARD PEREZ District 4 | | | |
| PATTI RADLE District 5 | | | |
| ENRIQUE M. BARRERA District 6 | | | |
| JULIAN CASTRO District 7 | | | |
| ART A. HALL District 8 | | | |
| CARROLL SCHUBERT District 9 | | | |
| CHRISTOPHER "CHIP" HAASS District 10 | | | |
| EDWARD D. GARZA Mayor | | | |

Amends Chapter 19

Agenda Voting Results

Name: 32.

Date: 05/05/05

Time: 06:08:39 PM

Vote Type: Multiple selection

Description: An Ordinance amending Chapter 19, Article I of the City Code; adopting an exception to the City Code 19-8 to allow for the solicitation of newspapers from an off-roadway surface to the occupants of motor vehicles on public streets; providing a severability clause and an effective date. [Presented by Martha Sepeda, Acting City Attorney; J. Rolando Bono, Interim City Manager]

| Voter | Group | Status | Yes | No | Abstain |
|--------------------|-------------|-------------|-----|----|---------|
| ROGER O. FLORES | DISTRICT 1 | Not present | | | |
| JOEL WILLIAMS | DISTRICT 2 | | x | | |
| RON H. SEGOVIA | DISTRICT 3 | | x | | |
| RICHARD PEREZ | DISTRICT 4 | Not present | | | |
| PATTI RADLE | DISTRICT 5 | | x | | |
| ENRIQUE M. BARRERA | DISTRICT 6 | | x | | |
| JULIAN CASTRO | DISTRICT 7 | | x | | |
| ART A. HALL | DISTRICT 8 | | x | | |
| CARROLL SCHUBERT | DISTRICT 9 | | x | | |
| CHIP HAASS | DISTRICT_10 | Not present | | | |
| MAYOR ED GARZA | MAYOR | Not present | | | |

JD
Item No. 32
05/05/05

AN ORDINANCE

100823

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* * * * *

WHEREAS, the Chapter 19, Article I, Section 19-8 of the City Code prohibits the solicitation of occupants of vehicles with some exceptions; and

WHEREAS, the City Council has determined that certain amendments to Chapter 19, Article I, Section 19-8 of the City Code are necessary; and

WHEREAS, the City Council finds that it has a governmental interest in protecting the general welfare, health, safety, and order of the citizens of the City; **NOW THEREFORE:**

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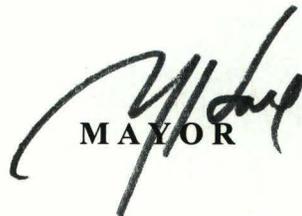
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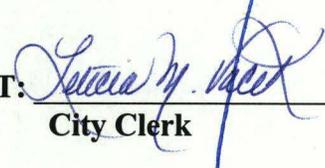
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SECTION 4. This Ordinance shall become effective ten (10) days after the date of passage.

PASSED AND APPROVED on this the 5th day of May, 2005.


MAYOR

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
City Attorney

**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

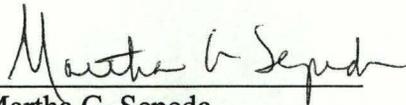
same standards as properly licensed vendors. Under the amendment, the newspaper vendors will only be allowed to stand on a traffic median, shoulder, improved shoulder, sidewalk, or the improved portion of the roadway to sell the paper. They will be allowed to collect payment from the motorists so long 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

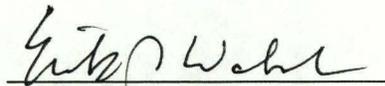
None

COORDINATION

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



Martha G. Sepeda
Acting City Attorney



J. Rolando Bono
Interim City Manager

**Amendment to City Code 19-8,
Motor Vehicles and Traffic
May 5, 2005
Item No. 32**

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.

City Code Section 19-8

- Section 19-8(a) of the San Antonio City Code prohibits any solicitation of vehicle occupants.
- Section 19-8(e) creates exceptions to (a).
 - Permit.
 - Once per year.
 - 2 consecutive days.
 - Within 15 days of a nationally recognized holiday.
 - Florescent vests.
 - 1 million dollar insurance policy.

Express-News v. COSA

- Suit filed to enjoin the city from prohibiting newspaper sales from areas adjacent to roadway.
- Suit alleges Section 19-8 of the San Antonio City Code is unconstitutional.

Express-News v. COSA

- Proposed Amendment would resolve the issues in the case.
- Express-News will dismiss the case against the City if amendment passes.
- City will still be able to regulate unimpeded traffic flow and address safety concerns.

Amendment to Section 19-8

- Persons 16 years or older allowed to solicit the sale of newspapers from sidewalks, walkways, raised medians, islands and other off-roadway surfaces.
- Person may deliver the newspaper to vehicle occupant so long as doing so does not impede traffic flow.
- Person must wear a fluorescent orange visibility vest.

Amendment to Section 19-8

- Solicitors under 18 must have consent of parent or guardian (16 and 17 year-olds).
- Newspaper will monitor minor solicitors.
- 1 million dollar insurance policy.

Amendment to Section 19-8

- Police Department and Prosecution Section have had input on the amendments.
- Staff Recommends Approval.

PUBLIC NOTICE

AN ORDINANCE 100823

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PASSED AND APPROVED
this 5th day of May, 2005.

/s/EDWARD C. GARZA
Mayor

ATTEST:
/s/LETICIA M. VACEK
City Clerk
5/13

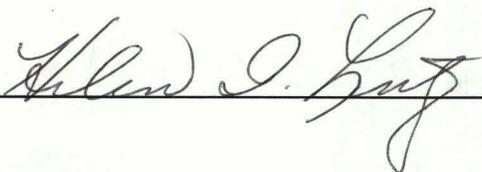
Affidavit of Publisher

STATE OF TEXAS,

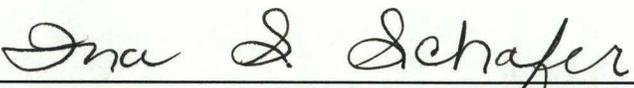
COUNTY OF BEXAR

CITY OF SAN ANTONIO

Before me, the undersigned authority, on this day personally appeared Helen I. Lutz, who being by me duly sworn, says on oath that she is Publisher of the Commercial Recorder, a newspaper of general circulation in the City of San Antonio, in the State and County aforesaid, and that the City of San Antonio-City Clerk-Ordinance 100823 hereto attached has been published in every issue of said newspaper on the following days, to-wit: May 13, 2005.



Sworn to and subscribed before me this 13th day of May, 2005.



Notary Public in and for Bexar County, Texas

