



Agenda Date: 04/26/2016
Agenda Item: 3.12

STAFF REPORT

Date: April 19, 2016
To: Bryan Montgomery, City Manager
From: Troy Edgell, Code Enforcement Manager

Approved and Forwarded to City Council:


Bryan Montgomery, City Manager

Subject: **An Ordinance Adding Chapter 36 to Title 4 of the Oakley Municipal Code Addressing Handbill Distribution**

Background and Analysis

Resident complaints reveal concerns when handbills are placed on properties to solicit donations or other business. Specifically, residents have complained about the nuisance of littering and the potential to encourage criminal activity by indicating the absence of property owners when handbills are attached to property structures (usually taped to garage doors and front doors) for extended periods.

It is the intent of this Ordinance to balance the accommodation of the distributors of handbills and the right of the occupants to object to receiving them.

The proposed Ordinance would require all handbills to be affixed or attached to a property in such a way that it will not be dislodged by the wind. Additionally, it requires the handbill to contain the name of the sponsor of the handbill along with the sponsor's contact information. The Ordinance protects the rights of occupants not desiring to receive handbills by making it unlawful for a sponsor to place a handbill on a property that has conspicuously placed a notice bearing the words "no handbills" or other similar language on their property.

Fiscal Impact

It is anticipated the fiscal impact will be neutral.

Recommendation

Staff recommends the City Council adopt the Ordinance adding Chapter 36 to Title 4 of the Oakley Municipal Code that addresses the distribution of handbills to residential properties.

Attachments

Proposed Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY ADDING
CHAPTER 36 TO TITLE 4 OF THE OAKLEY MUNICIPAL CODE, DEALING WITH
HANDBILL DISTRIBUTION**

The City Council of the City of Oakley ordains as follows:

Section 1. Chapter 36 is hereby added to Title 4 of the Oakley Municipal Code, to read as follows:

CHAPTER 36 DISTRIBUTION OF HANDBILLS

4.36.102 Findings.

The City Council finds that the distribution of handbills to residential properties has the potential to create nuisances and the encouragement of crime. When handbills are attached to residences and the occupants are not home for extended periods, the handbill remaining affixed to the property can signal to burglars that the property is not occupied and is ripe for theft of items within. Also, under certain circumstances, the placement and attachment of handbills can lead to litter problems. The City Council finds that this ordinance strikes a reasonable accommodation between the distributors of handbills and the rights of occupants to object to receive them.

4.36.104 Definition.

A "handbill" means any circular, piece of paper, booklet, card, pamphlet, sheet or other kind of printed matter which is distributed to or attached upon any residential premises in the City. Handbills shall not include newspapers.

4.36.106 Manner of distribution; identification of sponsor.

No handbill may be distributed, placed or posted within the City unless it is affixed or attached in such a way that it will not be dislodged by the wind. Every handbill shall contain the name of the sponsor as defined in Sec. 4.36.110 along with the sponsor's contact information.

4.36.108 No distribution where sign posted.

It is unlawful for any person to distribute, cause to be distributed, or permit the distribution or placement or posting of any handbill to or upon any residential premises (including the porch, yard, fence, or structure thereof) when such premises has posted thereon in a conspicuous place a notice or notices of at least eight (8") inches square

bearing the words "no handbills" or similar language, unless such person has first received the written consent of the occupant authorizing receipt of the handbill.

4.36.110 Applicability to sponsor.

The person or entity sponsoring the distribution of a handbill shall bear equal responsibility and liability under this ordinance as the person actually delivering or posting it in an unlawful manner. A "sponsor" of a handbill under this section means a person or entity who employs persons or contracts for the distribution of handbills advertising or announcing goods or services to which the handbill pertains. A "sponsor" is also the person or entity whose business or event is featured on the handbill. All sponsors shall inform such distributing employees or contractors of the provisions of this Chapter of the Oakley Municipal Code.

4.36.112 Nonapplicability.

This Chapter shall not apply to the distribution and delivery of any newspaper, nor to the distribution or delivery/posting of any notice required by law to be posted, nor to any delivery or posting made by a public officer or employee involved in the conduct of official business.

Section 2. California Environmental Quality Act (CEQA) Finding.

This Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), Review for Exemption, because it can be seen with certainty that the project will not have a significant effect on the environment; therefore the project is not

Section 3. Severability.

In the event any section or portion of this Ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 4. Effective Date and Publication.

This ordinance shall take effect and be in force and effect thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the office of the City Clerk at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on _____, 2016 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Kevin Romick, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date