



## Staff Report

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**File #:** 16-167

**Version:** 2

**Date:** 4/10/2017

**Item #:** 4.a.

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**TO:** Mayor and City Council

**THROUGH:** Steve Powers, City Manager

**FROM:** Glenn W. Gross, Community Development Director

**SUBJECT:**

Unsolicited Written Material Ordinance

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

**ISSUE:**

Additional information on Ordinance Bill No. 15-11 relating to solid waste (unsolicited written materials), on which deliberations were scheduled to be continued at the City Council meeting of August 8, 2016.

**RECOMMENDATION:**

Staff recommends not proceeding with the enactment of Ordinance Bill No. 15-11 relating to solid waste (unsolicited written materials).

**SUMMARY AND BACKGROUND:**

The City has been considering Ordinance Bill 15-11 since 2011. It would require delivery of unsolicited written materials to be by personal service or by placement of the materials on or about the front door or porch of any premises. The penalty for improper distribution of these materials would be an infraction with a fine of up to \$250 per offense.

On October 11, 2010, the City Council (Council) directed staff to review current ordinances that limited delivery of unsolicited written materials and that addressed litter. Staff was specifically directed to review an ordinance adopted by Louisville, Kentucky, and return with a recommendation on how the City of Salem could best limit the impact of unsolicited written materials on the public rights-of-way.

On February 14, 2011, an informational report was presented to Council that described the two predominant types of unsolicited written materials ordinances. One method involves a delivery-refusal register, i.e. a list of individuals who do not wish to receive unsolicited written materials. A

second method allows for the delivery of unsolicited written materials but restricts the location and manner of such delivery. This second method is the one that the Louisville-Jefferson County Metro Government has employed.

On April 11, 2011, the first reading of Ordinance Bill No. 15-11 took place, and a public hearing was scheduled for April 25, 2011.

On April 25, 2011, Council held a public hearing and public testimony was taken. After the public testimony, Council closed the public hearing but kept the record open for 90 days. The matter was scheduled for continued deliberations at the July 25, 2011 Council meeting.

On July 11, 2011, Council met and reviewed the Facts and Findings included in the informational report provided to Council on that date. Council canceled the deliberations scheduled for July 25, 2011 and rescheduled the continuation of deliberations for the first Council meeting in January, 2012.

On January 9, 2012, Council met and reviewed the Facts and Findings included in the informational report provided to Council on that date. After deliberation, Council approved a motion to continue deliberations for a period of six months and re-open deliberations at the Council meeting of July 9, 2012.

On July 9, 2012, Council met and reviewed the Facts and Findings included in the informational report provided to Council on that date. After deliberation, Council approved a motion to continue deliberations for a period of six months and re-open deliberations at the Council meeting of December 3, 2012.

On December 3, 2012, Council met and reviewed the Facts and Findings included in the informational report provided to Council on that date. After deliberation, Council approved a motion to continue deliberations for a period of six months and re-open deliberations at the Council meeting of June 24, 2013.

On June 24, 2013, Council met and reviewed the Facts and Findings included in the informational report provided to Council on that date. After deliberation, Council approved a motion to continue deliberations for a period of six months and re-open deliberations at the Council meeting of December 2, 2013.

On December 2, 2013, Council met and reviewed the Facts and Findings included in the informational report provided to Council on that date. After deliberation, Council approved a motion to continue deliberations for a period of six months and re-open deliberations at the Council meeting of June 23, 2014.

On June 23, 2014, Council met and reviewed the Facts and Findings included in the informational report provided to Council on that date. After deliberation, Council approved a motion to continue deliberations for a period of six months and re-open deliberations at the Council meeting of December 8, 2014.

On December 8, 2014, Council met and reviewed the Facts and Findings included in the informational report provided to Council on that date. After deliberation, Council approved a motion to continue deliberations for a period of six months and re-open deliberations at the Council meeting of June 8, 2015.

On June 8, 2015, Council met and reviewed the Facts and Findings included in the informational report provided to Council on that date. After deliberation, Council approved a motion to continue deliberations for a period of six months and re-open deliberations at the Council meeting of December 14, 2015.

On December 14, 2015, Council met and reviewed the Facts and Findings included in the informational report provided to Council on that date. After deliberation, Council approved a motion to continue deliberations for a period of six months and re-open deliberations at the Council meeting of August 8, 2016

On August 8, 2016, Council met and reviewed the Facts and Findings included in the informational report provided to Council on that date. After deliberation, Council approved a motion to continue deliberations for a period of six months and re-open deliberations at the Council meeting of March 13, 2017.

## FACTS AND FINDINGS:

1. Compliance Services officers have witnessed unsolicited written materials placed in the public rights-of-way and at vacant, abandoned, or derelict houses throughout the City of Salem. Compliance Services officers have retrieved samples of this material from most parts of the City. Both the number and severity of these incidents is reported to be less than the previous six months.
2. Between the closing of the Council meeting on August 8, 2016, and the writing of this report, no official complaints of unsolicited written materials involving the *Statesman Journal* newspaper have been received by Compliance Services. This number is the same as the previous six-month period.
3. The correct phone number to contact the *Statesman Journal* is supposed to appear on all of its delivery bags. Upon dialing the phone number, a *Statesman Journal* employee will answer the call and agree to place the caller's address on the newspaper's "Do Not Deliver" list. During the last six months, the *Statesman Journal* has stated that it has used bags that have the correct phone number clearly printed with instructions and that there have been no reports of older bags without the contact phone number being used.
4. The *Statesman Journal* reports that approximately 50% of the forty-five thousand weekly deliveries it makes are placed on porches or by front doors. Addresses that do not receive porch delivery typically have difficult terrain, long driveways, locking gates, animals, etc.
5. The *Statesman Journal* reports that in the last six months it received 53 requests not to deliver unsolicited written materials to specific addresses. This number is down from 185 requests during the previous six months. The *Statesman Journal* also reports that there were 12 complaints from people who continued to receive materials after asking for delivery to stop. This number is a fraction of the previous six month total of 41. Requests to stop delivery now average about 2 per week. This number is down from the 20 per week average of 2016. It appears that most everyone who does not want this delivery has successfully contacted the *Statesman Journal* and requested the delivery to stop.
6. Anecdotal reports from neighborhood associations indicate an improvement in delivery methods and accuracy through the fall and winter.
7. Despite the efforts of the *Statesman Journal* as enumerated in this and previous staff reports, unsolicited written materials continue to be delivered to some properties and occupants who do not wish to receive them. However, the number of reported violations is limited, and the *Statesman Journal* continues to work proactively to further reduce complaints.

8. The *Statesman Journal* reports the changes made in 2015-2016 to efficiently and accurately manage this program are still in place. The dedicated part-time employee who is tasked exclusively to delivery verification and stop delivery requests continues to be employed at 25 hours per week. District managers still receive a weekly report of all delivery stops from the previous week, and all carriers still receive stop delivery requests on a bright half size sheet of paper. The *Statesman Journal* IT system upgrade still allows the creation of a true delivery list, instead of a "deliver to everyone except" list.
9. The *Statesman Journal* performance measures being tracked by City staff have improved during the last six months. Staff believes the changes in both support personnel and resources tasked with delivery and complaint resolution are succeeding. The publisher, Ryan Kedzierski, and distribution manager, Paul Nettland, of the *Statesman Journal* have given assurances in meetings and email communications that, although they intend to continue deliveries of unsolicited written materials, their performance of such deliveries will continue to improve in the future.
10. Enforcement of an unsolicited written materials ordinance would be a lower priority than other nuisances and quality of life issues in the neighborhoods. The City is operating with fewer Compliance Services Officers, and without additional resources, enforcement of an unsolicited written material ordinance could only be pursued at the expense of higher-priority cases.
11. Based on the foregoing, staff recommends that Council not enact Ordinance Bill No. 15-11.

Brady Rogers, Administrator  
Neighborhood Enhancement Division

Attachments:

1. Unsolicited Written Materials Ordinance Bill No. 15-11

02/15/17