

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

March 3, 2008

CALL TO PODIUM:

Fred Felton
Assistant City Manager

RESPONSIBLE STAFF:

Fred Felton
Assistant City Manager

AGENDA ITEM:

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Historic District
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	Resolution
<input type="checkbox"/>	Policy Discussion
<input type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE:

RESOLUTION TO CHANGE THE EFFECTIVE DATE OF ORDINANCE O-7-07 (ANTI-SOLICITATION) ADOPTING SECTION 15-9, AND PROVIDING FOR FUTURE CHANGES TO THE EFFECTIVE DATE BY RESOLUTION

SUPPORTING BACKGROUND:

On June 18, 2007, the City Council adopted Emergency Ordinance No. 07-07 changing the effective date of Section 15-9, as set forth in Section 15-9(f). The Ordinance also provided that any future changes to the effective date could be implemented by resolution of the Mayor and City Council.

Has we waited for the Attorney General's Opinion on the constitutionality of the City's Anti-Solicitation Ordinance, it has been necessary to pass resolutions changing the effective date of the ordinance on four occasions. Pursuant to the last resolution the ordinance will go into effect on March 3, 2008.

On February 27, 2008, the City received the Attorney General's opinion on the validity of our Anti-Solicitation Ordinance. In his opinion the ordinance is both preempted by State law and would not survive scrutiny under First Amendment jurisprudence.

At this point, staff is recommending that we again extend the effective date of this ordinance.

The attached resolution will change the effective date of the City's Anti-Solicitation Ordinance to April 22, 2008.

Attachment:

- Draft Resolution**

DESIRED OUTCOME:

Vote on Resolution

RESOLUTION NO. _____

RESOLUTION OF THE MAYOR AND CITY COUNCIL CHANGING THE EFFECTIVE DATE OF ORDINANCE O-7-07 (ANTI-SOLICITATION) ADOPTING SECTION 15-9, AND PROVIDING FOR FUTURE CHANGES TO THE EFFECTIVE DATE BY RESOLUTION

WHEREAS, the Mayor and City Council adopted Emergency Ordinance No. O-7-07 on June 18, 2007, changing the effective date of Section 15-9(f) of the City Code to September 1, 2007 in order to obtain an opinion from the Attorney General's office as to the constitutionality of Section 15-9; and

WHEREAS, Ordinance No. O-7-07 provides that the Council may change the effective date of the Ordinance in the future by resolution; and

WHEREAS, on February 27, 2008, the City received an Attorney General's Opinion indicating that the City's Anti-Solicitation Ordinance is both preempted by State law and would not survive scrutiny under First Amendment jurisprudence.

WHEREAS, the City Council finds that it is in the best interest of the City that the effective date of Section 15-9 be further extended as the City determines if there are additional legislative options available:

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of Gaithersburg, that the effective date of Section 15-9, as contained in Section 15-9(f), is hereby extended so that Section 15-9 shall not become effective until April 22, 2008. In accordance with Ordinance No. O-7-07, the City Council may change the effective date of the Ordinance in the future by resolution.

ADOPTED by the Mayor and City Council this 3rd day of March, 2008.

SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the City Council in public meeting assembled on the 3rd day of March, 2008.

James D. Arnoult, Acting City Manager