

EXHIBIT NO.

*City of Alexandria, Virginia*

MEMORANDUM

DATE: JUNE 7, 2006

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER *8*

SUBJECT: ORDINANCE TO PROHIBIT THE DELIVERY OF FREE NEWSPAPERS TO PRIVATE PROPERTY OWNERS WHO HAVE DECLINED THE SERVICE

**ISSUE:** Citizen complaints about unsolicited newspapers being delivered to their homes and their inability to get the newspaper publisher to stop the deliveries.

**RECOMMENDATION:** That Council pass the ordinance on first reading and schedule it for public hearing, second reading, and final passage on Saturday, June 17. Although the ordinance becomes effective upon final passage, the "Do Not Deliver" list must be published first and would become effective on September 1, 2006.

**DISCUSSION:** Consumer Affairs staff began receiving citizen complaints in December 2004 regarding the delivery of unwanted free newspapers and their inability to stop the deliveries. Citizens also expressed concern about the newspapers being delivered when they were out of town and piling up at their door or in the front yard. Several homeowners associations have asked that papers not be delivered in their area because of similar concerns and security and littering issues associated with the delivery of the newspapers.

To date, staff have processed a total of 102 complaints. Staff has had some success working directly with the circulation manager and other staff of the newspapers to terminate the unwanted deliveries. A number of citizens have reported that the newspapers have been stopped for limited periods of time and then the deliveries resumed. Staff determined that in many instances contractors make the actual deliveries and their response to the complaints has been mixed. In addition, newspaper staff turnover has resulted in citizen "no delivery" requests not being transmitted to new staff members.

Over the past two years, Council has received an increasing number of complaints from residents who expressed concern about their inability to stop the delivery of the free newspapers. The City Attorney has suggested a "do not deliver" approach modeled on the national "do not call" list employed to stop unwanted telephone solicitations on home telephones. The proposed ordinance

establishes a "Do Not Deliver" list maintained by the Office of Citizen Assistance. It provides for the publication of the list on a quarterly basis and imposes escalating fines for violations.

**FISCAL IMPACT:** Approximately \$500 in FY 2007 to implement the ordinance requirements. To make that money available to the Office of Citizen Assistance a supplemental appropriation amendment will be processed in the fall.

**STAFF:**

Rose Williams Boyd, Director of Citizen Assistance  
Jacqueline Levy, Consumer Affairs Administrator

Introduction and first reading:	6/13/06
Public hearing:	6/17/06
Second reading and enactment:	6/17/06

**INFORMATION ON PROPOSED ORDINANCE**

**Title**

AN ORDINANCE to amend and reordain Title 9 (Licensing and Regulation) of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding thereto a new Chapter 14 (Unsolicited Newspaper Deliveries).

**Summary**

The proposed ordinance would establish a "do not deliver" list, analogous to the "do not call list" applicable to telemarketing, and permit residents of the City to list their property address with the City's Office of Citizen Assistance. The delivery of unsolicited newspapers to premises included on the list would be prohibited. Delivery by mail, by handing directly to the recipient in person, and by placing in a newspaper box provided by the recipient would not be subject to the prohibition. The list would be updated and published quarterly. A request for inclusion on the list would be valid for a two-year period, unless the request is cancelled sooner. The listing would apply to all unsolicited newspapers, without regard to content, subject matter or viewpoint. The proposed ordinance also prohibits depositing an unsolicited newspaper in the public right-of-way immediately adjacent to a listed premises. Publishers and distributors would be required to remove offending newspapers from public or private property. Violation of the new regulations would be a class five civil violation, punishable with a \$25 fine for the first infraction, \$50 for the second infraction, and \$100 for the third and subsequent infractions within one year at a listed address. A fee of \$ 5.00 is proposed for listing, and \$ 25.00 for a copy of the list, and transactions must be available on-line. Information on the list will be subject to the Freedom of Information Act.

**Sponsor**

**Staff**

Rose Williams Boyd, Director, Citizen Assistance  
Ignacio B. Pessoa, City Attorney

**Authority**

§ 2.1, Alexandria City Charter

**Estimated Costs of Implementation**

As discussed in City Manager's Memorandum

1     Attachments in Addition to Proposed Ordinance and its Attachments (if any)  
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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend and reordain Title 9 (Licensing and Regulation) of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding thereto a new Chapter 14 (Unsolicited Newspaper Deliveries).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Title 9 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained by adding thereto a new Chapter 14 to read as follows:

[The following is all new language.]

**Chapter 14 Unsolicited Newspaper Deliveries**

**Section 9-14-1 Definitions.**

As used in this chapter:

(a) Deliver means to deliver, distribute, deposit, throw, cast or place, or cause or permit to be delivered, distributed, deposited, thrown, cast or placed, a newspaper, directly or indirectly by agent, employee or otherwise, but shall not include delivery by the United States Postal Service, delivery by handing or transmitting directly to the owner or occupant then present on the property, or delivery by placing within a receptacle or container expressly maintained by the owner or occupant of property for the receipt of newspaper deliveries.

(b) Distributor means a person, other than a publisher, who engages in the business of circulating or delivering newspapers.

(c) Newspaper means any publication issued monthly or more frequently, whether printed in broadsheet, tabloid or other sheet or booklet form, containing information or editorials on current events, news of general or local interest, and commercial advertising and information, irrespective of content, subject matter or viewpoint, and shall include without limitation a newspaper of general circulation as defined by general law, any newspaper duly entered with the United States Postal Service in accordance with statute or regulation, and any newspaper distributed without cost to or subscription by the recipient.

(d) Publisher means a person who engages in the business of printing and issuing for circulation, or causing to be printed and issued for circulation, a newspaper.

(e) Unsolicited newspaper means a newspaper to which no owner or occupant of the premises to which it is delivered currently subscribes.

**Section 9-14-2 Do not deliver list established.**

(a) The Director of Citizen Assistance shall maintain a list of premises, by address, whose owner or occupant has filed a notice with the director, on a form provided by the director, requesting that unsolicited newspapers not be delivered to the premises.

1 (b) The notice provided pursuant to subsection (a) shall be effective for a period of two years.  
2 The list shall be revised and published by the director four times per year, at the inception of each  
3 calendar quarter, and shall be effective on publication; provided, however, that an owner or  
4 occupant who desires that his or her premises be removed from the list may provide notice of  
5 removal, on a form provided by the director, to the director and to any publisher or distributor  
6 desired by the owner or occupant, and the removal shall be effective as to all publishers and  
7 distributors upon receipt of such notice by the director.  
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9 (c) The director shall have no responsibility to verify the identity of any owner or occupant, and  
10 the inclusion of a premises on the list, or removal therefrom, shall be conclusive as all owners and  
11 occupants. The City shall have no responsibility for any errors or omissions on the list, and the  
12 information on the list shall be public.  
13

14 (d) In addition to submission by other methods, the director shall provide for the submission of  
15 forms filed pursuant to this chapter, and payment of the filing fee therefor, on-line via the City's  
16 web site.  
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18 (e) The director shall charge a fee of \$ 25.00 for each copy of the list.  
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20 **Section 9-14-3 Prohibition on delivery to listed premises.**  
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22 (a) No publisher or distributor shall deliver any unsolicited newspaper to any premises included  
23 on the list.  
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25 (b) No publisher or distributor shall deliver any unsolicited newspaper to the public right-of-way  
26 in front of or adjacent to a premises included on the list.  
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28 (c) No publisher or distributor shall deliver more than one copy of any unsolicited newspaper to  
29 private property adjacent to a premises included on the list, unless expressly requested in writing  
30 by the owner or occupant of such adjacent property.  
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32 (d) No publisher or distributor shall deliver more than one copy of any unsolicited newspaper to  
33 the public right-of-way in front of or adjacent to the property on any side of a premises included  
34 on the list.  
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36 **Section 9-14-4 Removal.**  
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38 (a) The publisher or distributor thereof shall remove any newspaper delivered in violation of  
39 Section 9-14-3(a) or Section 9-14-3(c) within 24 hours following notice and demand by the owner  
40 or occupant of the premises.  
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42 (b) The publisher or distributor thereof shall remove any newspaper delivered in violation of  
43 Section 9-14-3(b) or Section 9-14-3(d) within 24 hours following notice and demand by the  
44 Director of Citizen Assistance or designee.  
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46 (c) Notice and demand may be given in person, or by telephone, facsimile, or e-mail, directed to  
47 the business office, circulation department or equivalent office or department of the publisher or

1 distributor, and shall be effective as to each recipient as of the date and time given.

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3 (d) Violation of this section 9-14-4 shall constitute a separate and independent violation from the  
4 antecedent violation of section 9-14-3.

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6 **Section 9-14-5 Penalties.**

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8 (a) Violation of section 9-14-3 shall constitute a class five civil violation, pursuant to section 1-1-  
9 11 of this code; provided, however, that for the purpose of determining whether a subsequent  
10 violation is subject to an enhanced penalty, delivery of the same publication to the same address  
11 within a 12-month period shall constitute a violation arising from the same set of operative facts.

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13 (b) Violation of section 9-14-4 shall constitute a class four civil violation, pursuant to section 1-1-  
14 11 of this code; provided, however, that for the purpose of determining whether a subsequent  
15 violation is subject to an enhanced penalty, the failure to remove the same publication from the  
16 same address within a 12-month period shall constitute a violation arising from the same set of  
17 operative facts.

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19 (c) In any action for the enforcement of this section, the information on the list in effect on the  
20 date of violation, including notices of removal, shall be conclusive.

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22 Section 2. That this ordinance shall become effective upon the date and at the time of  
23 its final passage; provided, however, that the do not deliver list established hereunder shall be first  
24 published and become effective on September 1, 2006.

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27 WILLIAM D. EUILLE  
28 Mayor

29 **Attachment**

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31 Introduction: 6/13/06  
32 First Reading: 6/13/06  
33 Publication:  
34 Public Hearing:  
35 Second Reading:  
36 Final Passage:  
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