

1	Introduction and first reading:	03/10/09
2	Public hearing:	03/14/09
3	Second reading and enactment:	03/14/09

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 (Delivery of Unsolicited Publications).

Summary

The proposed ordinance regulates the delivery of unsolicited publications to addresses within the City of Alexandria by requiring publishers to have processes to notify residents how to request non-delivery and processes for both publishers and distributors on how to track and follow up on such requests, as well as civil penalties for violations.

Sponsor

Staff

Rose Williams Boyd, Director, Citizen Assistance
Christopher P. Spera, Acting City Attorney

Authority

§2.1, Alexandria City Charter

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

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 (DELIVERY OF UNSOLICITED PUBLICATIONS).

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

Delivery of Unsolicited Publications

Sec. 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 publication, directly or indirectly by contractor, 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 an entity who engages in the business of circulating or delivering newspapers.

(c) Publication means any printed material issued monthly or more frequently, whether printed in broadsheet, tabloid or other sheet or booklet form, 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, any collection of advertising or solicitations appended together in booklet or magazine form 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 publication.

(e) Unsolicited publication means a publication to which no owner or occupant of the premises to which it is delivered currently subscribes or has not requested.

1
2 Sec. 9-14-2 Obligations of Publishers and Distributors
3

4 (a) Any publisher delivering or causing delivery of an unsolicited publication to a
5 location within the City of Alexandria shall:
6

7 (1) provide reasonable methods, including but not limited to, telephonic means, e-mail
8 means and regular mail means, to allow owners and/or occupants of premises located within the
9 City of Alexandria to communicate to the publisher that they do not wish to receive the
10 unsolicited publication issued by the publisher; notice of all such methods shall be regularly
11 included in, on or with the unsolicited publications issued by the publisher;
12

13 (2) implement a process or system whereby the addresses of all persons making
14 requests for no delivery pursuant to section (a)(1) hereto are timely communicated to any and all
15 applicable distributors responsible for distributing the unsolicited publication issued by the
16 publisher;
17

18 (3) timely communicate the address of all persons making requests for no delivery made
19 pursuant to section (a)(1) hereto to all applicable distributors pursuant to the process or system
20 implemented pursuant to section (a)(2) hereto;
21

22 (4) implement and communicate to the requesting person a means of tracking requests
23 for no delivery made pursuant to section (a)(1) hereto, including, by way of example, the
24 assignment of a tracking number or some other reference system, so as to allow all persons
25 making such requests to reference same in the event there is the need for follow-up or further
26 communication;
27

28 (5) implement and utilize a process or system to timely follow up with all applicable
29 distributors to ensure compliance with requests made pursuant to section (a)(1) hereto;
30

31 (6) upon written request from the Director of the Office of Citizen Assistance or
32 designee, provide the City of Alexandria with contact information for any applicable distributor to
33 allow the City to follow up with that distributor on any complaint received by the City from a
34 resident regarding delivery of an unsolicited publication after making a request pursuant to section
35 (a)(1) hereto; and
36

37 (7) the requirements set forth in sections (a)(1) through (a)(6) hereto shall not apply to
38 requests made by residents for temporary cessation of deliveries.
39

40 (b) Any distributor delivering unsolicited publications in the City of Alexandria shall:
41

42 (1) not distribute to any address where the owner or occupant has made a request for no
43 delivery pursuant to section (a)(1) hereof and such request has been communicated to the
44 distributor by the publisher pursuant to sections (a)(2) and (a)(3) hereto;

1 (2) in making deliveries, use their best efforts to place publications in proximity to the
2 entrances of the units to which the distributor intends delivery; unsolicited publications (other
3 than those in properly located and maintained newspaper boxes or racks) should not be placed
4 on streets, sidewalks, public rights-of-way, or other public property and shall not be distributed
5 by placing them at intervals along a block, or by placing several near the entrance to a multi-unit
6 building, other than in direct relation to the number of publications requested by the occupants
7 of the block or building;

8
9 (3) implement and utilize a system or procedure for tracking and executing a publisher's
10 direction regarding requests for no delivery made pursuant to section (a)(1) hereto;

11
12 (4) upon written request from the Director of the Office of Citizen Assistance or
13 designee, use their best efforts to provide the City of Alexandria with facts and details related to
14 complaints received by the City from a resident regarding delivery of an unsolicited publication
15 after making a request pursuant to section (a)(1) hereto;

16
17 (5) take any corrective measures requested by the City of Alexandria after its
18 completion of any investigation into complaints received by the City from a resident regarding
19 delivery of an unsolicited publication after making a request pursuant to section (a)(1) hereof;
20 and

21
22 (6) the requirements set forth in sections (b)(1) through (b)(5) hereto shall not apply to
23 requests made by residents for temporary cessation of deliveries.

24
25 Sec. 9-14-3 Removal.

26
27 (a) If the publication can be located, the distributor thereof shall remove any publication
28 delivered in violation of Section 9-14-2(b) within 24 hours following notice and demand by the
29 owner or occupant of the premises.

30
31 (b) If the publication can be located, the distributor thereof shall remove any publication
32 delivered in violation of Section 9-14-2(b) within 24 hours following notice and demand by the
33 Director of the Office of Citizen Assistance or designee.

34
35 (c) Violation of this section 9-14-3 shall constitute a separate and independent
36 violation from the antecedent violation of section 9-14-2.

37
38 Sec. 9-14-4 Enforcement by the City

39
40 (a) Any resident of the City of Alexandria wishing to make a complaint regarding
41 delivery of an unsolicited newspaper in violation of this chapter to the property at which they
42 reside or which they own shall provide the following information to the Director of the Office of
43 Citizen Assistance or designee:

- 44
45 (1) the name of the requesting person;
46 (2) the address that was the subject of the request;
47 (3) the date of and method used to make the request;

1 (4) the tracking number or other reference information provided by the publisher in
2 response to the request; and

3 (5) the name and publication date of the unsolicited publication that is the subject of
4 the complaint.

5
6 (b) Any resident of the City of Alexandria wishing to make a complaint regarding a
7 publisher's failure to provide a tracking number or other means of reference for a no delivery
8 request in violation of section 9-14-2(a)(4) of this chapter shall provide the following
9 information to the Director of the Office of Citizen Assistance or designee:

- 10
11 (1) name of the requesting person;
12 (2) the address that was the subject of the request;
13 (3) the date of and method used to make the request; and
14 (4) the name and publication date of the unsolicited publication that is the subject of
15 the complaint.

16
17 (c) Any person wishing to make a complaint unrelated to a no delivery request and
18 regarding improper placement of unsolicited publications by a distributor of unsolicited
19 publications in violation of section 9-14-2(b)(2) of this chapter shall provide the following
20 information to the Director of the Office of Citizen Assistance or designee:

- 21
22 (1) the name of the complaining person;
23 (2) the location of the alleged improper placement and time the condition was
24 observed; and
25 (3) the name and publication date of the unsolicited newspaper that is the subject of
26 the complaint.

27
28 (d) Any person wishing to make a complaint for failure to remove an improperly
29 delivered unsolicited publication in violation of section 9-14-3(a) shall provide the same
30 information as is required in section 9-14-4(a), plus the date, time and manner of communication
31 of the request to remove.

32
33 The City shall have no obligation to take any action on a complaint that does not
34 contain the required information set forth above.

35
36 Sec. 9-14-5 Penalties.

37
38 (a) Violation of section 9-14-2 shall constitute a class five civil violation, pursuant to
39 section 1-1-11 of this code; provided, however, that for the purpose of determining whether a
40 subsequent violation is subject to an enhanced penalty, delivery of the same publication to the
41 same address within a 12-month period shall constitute a violation arising from the same set of
42 operative facts.

43
44 (b) Violation of section 9-14-3 shall constitute a class four civil violation, pursuant
45 to section 1-1-11 of this code; provided, however, that for the purpose of determining whether a

1 subsequent violation is subject to an enhanced penalty, the failure to remove the same
2 publication from the same address within a 12-month period shall constitute a violation arising
3 from the same set of operative facts.
4

5 Section 2. That this ordinance shall become effective upon the date and at the time of
6 its final passage.
7

8 WILLIAM D. EUILLE
9 Mayor

10 Attachment

11
12 Introduction: 3/10/2009
13 | First Reading: 3/10/2009
14 Publication:
15 Public Hearing:
16 Second Reading:
17 Final Passage:

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~~1-24-09~~

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~~6-11-06~~

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~~6-13-06~~

City of Alexandria, Virginia

MEMORANDUM

~~23~~
~~1-13-09~~

DATE: JUNE 7, 2006

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

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

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