

ORDINANCE NO. 4582

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:

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Sec. 9-14-3 Removal.

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

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

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

#### Sec. 9-14-4 Enforcement by the City

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

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

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

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

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

(1) name of the requesting person;

(2) the address that was the subject of the request;

(3) the date of and method used to make the request; and

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

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

(1) the name of the complaining person;

(2) the location of the alleged improper placement and time the condition was observed; and

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

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

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

#### Sec. 9-14-5 Penalties.

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

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

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

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

WILLIAM D. EUILLE  
Mayor

Final Passage: March 14, 2009