

**ORDINANCE NO. 2019-12**

AN ORDINANCE SUPPLEMENTING CHAPTER 660 OF THE CODIFIED ORDINANCES TO REGULATE UNSOLICITED MATERIALS.

WHEREAS, the Constitution of the State of Ohio, in Article XVIII, Section 3, grants municipalities the authority to exercise all powers of local self government and to enforce local police, sanitary, and other similar regulations as are not in conflict with the general laws; and

WHEREAS, pursuant to this constitutional home rule authority, the people of the City of Monroe, Ohio, have adopted a Charter and Codified Ordinances to exercise the powers of local self-government and enforce local police power regulations; and

WHEREAS, the City has substantial, legitimate interests in preserving and maintaining a high level of sanitation throughout the City by reducing visual blight and litter; and

WHEREAS, the City has experienced ongoing problems with the delivery of unsolicited written materials to areas of private property such as yards and driveways, commonly resulting in materials remaining in such locations for extended periods of time, causing visual blight;

WHEREAS, the City has received resident complaints related to unsolicited written materials being delivered to locations on the residents' private property which, in addition to causing visual blight and the spread of litter, cause hardship on residents forced to collect these materials from various portions of their or neighboring property; and

WHEREAS, the City wishes to reduce visual blight, littering, and the interference with private property associated with the delivery of unsolicited written materials while at the same time protecting the First Amendment rights of the persons and organizations delivering those materials.

WHEREAS, the issue of delivery of unsolicited material has been discussed by Council in numerous regular sessions and attempts to deal with the adverse effects of delivery of unsolicited material under existing ordinances and through voluntary action by those responsible for delivering such material has been unsuccessful; and

WHEREAS, based on observation from City Council members and findings in other communities, City Council finds that some of the unsolicited materials can and do migrate to public property, where upon they become litter; and

WHEREAS, in light of the thousands of unsolicited materials delivered in the City each year, the City has a reasonable basis to believe that restricting such deliveries to certain specified locations will bring about a more consistent esthetic and reduce litter; and

WHEREAS, requiring all unsolicited materials to be delivered to consistent, predictable locations will further reduce the visual impact of such materials by increasing the chances that recipients will find and collect the materials and discard them in an appropriate manner; and

WHEREAS, City Council finds that this ordinance leaves open ample alternative channels of communication and does not prohibit the right for individuals to travel door-to-door to proselytize, and leave literature with residents;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: Chapter 660 of the Codified Ordinances is hereby supplemented to read as follows:

“660.18 UNSOLICITED WRITTEN MATERIALS.

(a) As used in this section:

Front door: means the street-facing entrance(s) to a principal structure. In the event no door faces the street, then any other door of a principal structure nearest the street shall be considered a front door for purposes of this section.

Person: means any person, firm, corporation, limited liability company, association, club, society or other organization.

Porch: means an exterior appendage to a principal structure leading to a doorway, including any stairway attached thereto.

Premises: means a lot, plot, or parcel of land including any structures, driveways, or other impervious surfaces thereon.

Principal structure: means a structure, or combination of structures of primary importance on the premises, and that contains the primary use associated with the premises. The primary use is characterized by identifying the main activity taking place on the premises.

Unsolicited written materials: means any written materials delivered to any premises without the express invitation or permission, in writing or otherwise, by the owner, occupant, or lessee of such premises.

(b) No Person shall deliver, place, or distribute unsolicited written materials to any premises other than in the following locations and manners: (1) On a porch, if one exists, nearest the front door; or (2) So that such materials are securely attached to the front door; or (3) Through a mail slot on the front door or principal structure, if one exists, as permitted by the United States Postal Service Domestic Mail Manual, Section 508 Recipient Services, Subsection 3.1.2; or (4) Between the exterior front door, if one exists and is unlocked, and the interior front door; or (5) Where permitted, in a distribution box located

on or adjacent to the premises; or (6) Securely attached to a hook or within some other receptacle used for the delivery of non-U.S. Mail packages or materials, attached to the mailbox post for the premises, if it exists; or (7) Personally to the owner, occupant, and/or lessee of the premises.

(c) Notwithstanding subsection (B), an owner, lessee, or occupant maintains the right to restrict entry to his or her premises. Any entry onto private property under this section remains subject to the provisions in section 854.07 of the Monroe Codified Ordinances regarding entry onto property with a sign bearing the words "No Peddlers, Solicitors, or Canvassers Invited," or words of similar import.

(d) Organizational liability. It is the intent of City Council to jointly impose organizational liability under Monroe Code 606.08 for violation of this section by any officer, agent (including but not limited to an independent contractor), or employee of a business or organization while acting on behalf of the business or organization and within the scope of the officer's, employee's or agent's office or employment.

(e) Timestamped photographic evidence of unsolicited written materials located upon a premises, other than as permitted pursuant to Section B, creates a rebuttable presumption that the materials were placed at the premises by the owner, officer, agent (including but not limited to an independent contractor), or employee of the business, product, good, service, or message which is being advertised, promoted, endorsed, or conveyed in such materials. Where the materials are delivered as a package and relate to multiple businesses, products, goods, services, or messages, the presumption shall apply to the identified distributor of the package of materials, if any. Violation of this section is a strict liability offense and the prosecution of an offense under this section is relieved from proof of any other culpable mental state as defined in section 606.07 of the Monroe Codified Ordinances.

(f) The provisions of this section do not apply to the United States Postal Service.

(g) Severability. If any provision, clause, sentence, or paragraph of this section or the application thereof to any person or circumstances shall be held invalid, that invalidation shall not affect the other provisions of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this section are declared to be severable.

(h) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor on a first offense. Any subsequent offense shall be charged as a third degree misdemeanor if the defendant has previously been convicted individually or under organizational liability. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. The penalty shall be as provided in Chapter 698 of the Monroe Code depending on the defendant's status as an individual and/or organization.

SECTION 2: All of the other provisions of Chapters 660 shall remain in full force and effect. If any.

SECTION 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

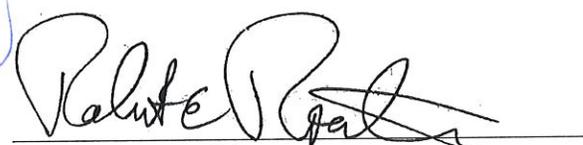
SECTION 4: This measure shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: June 11, 2019

ATTEST:

APPROVED:

  
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Clerk of Council

  
\_\_\_\_\_  
Mayor

First Reading: May 28, 2019

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Sunshine Law, Section 121.22 of the Ohio Revised Code.

"I, the undersigned Clerk of Council of the city of Monroe, Ohio, hereby certify the foregoing (ordinance or resolution) was published as required by Section 7.16 of the Charter of the City of Monroe.

  
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Clerk of Council  
City of Monroe, Ohio