

ORDINANCE NO. 2019-31

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, on April 17, 2019, the United States Court of Appeals for the Sixth District upheld restricting the delivery of “unsolicited written materials.” *Lexington H-L Servs., Inc. v. Lexington-Fayette Urban Cty. Gov’t*, 879 F.3d 224; 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.

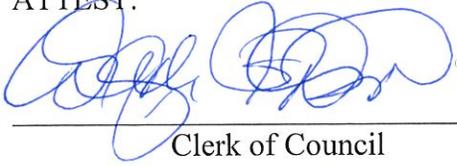
- (a) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- (1) *Citation Officer.* Code Enforcement Officer as defined in the Planning and Zoning Code or designee.
 - (2) *Front Door.* The street-facing entrance 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 ordinance.
 - (3) *Porch.* An exterior appendage to a principal structure leading to a doorway, including any stairway attached thereto.
 - (4) *Premises.* A lot, plot, or parcel of land including any structures, driveways, or other impervious surfaces thereon.
 - (5) *Principal Structure.* 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.
 - (6) *Unsolicited written materials.* 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) *Placement of Unsolicited Written Materials.* Unsolicited written materials delivered to premises shall be placed:
- (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.
 - (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) Personally with the owner, occupant, and/or lessee of the premises.
- (c) Notwithstanding subsection (b) above, an owner, lessee, or occupant maintains the right to restrict entry to his or her premises.
 - (d) Unsolicited written materials placed at a premises create a rebuttable presumption that the materials were placed at the premises by the owner, agent, manager, and/or authorized distributor of the business, product, good, service, message, or idea, which is being advertised, promoted, endorsed, or conveyed in such materials.
 - (e) The provisions of this ordinance do not apply to the United States Postal Service.
 - (f) Any placement of unsolicited written materials in areas on or adjacent to a premises other than as set forth in subsection (b) of this ordinance shall be a violation of this ordinance, classified as a civil offense, and may be enforced by issuance of a civil citation by a citation officer.
 - (g) *Civil Penalty.* The civil penalty for each violation of this ordinance shall be a maximum of two hundred dollars (\$200) per violation.
 - (h) *Code Enforcement Board.* The administrative hearing board shall be the Board of Zoning Appeals having authority to determine whether there has been a violation of this ordinance.
 - (i) *Severability.* If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidation shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared severable.

SECTION 2: This measure shall take effect and be in full force from and after the earliest period allowed by law.

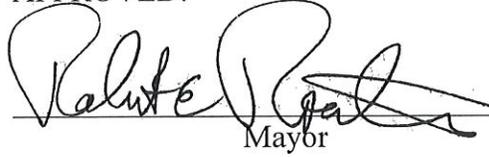
PASSED: October 22, 2019

ATTEST:



Clerk of Council

APPROVED:



Mayor

First Reading: October 8, 2019

"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.



Clerk of Council
City of Monroe, Ohio

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