

Sec. 66-9.1. - Handbill distribution.

(a) *Purpose.* Insofar as unsolicited handbills are constantly left on private premises and vehicles in public places, there is a problem with litter as such handbills are oftentimes blown into the streets and onto lawns and not retrieved. In addition to the litter problem created by handbill distribution, an accumulation of unretrieved handbills is a signal to burglars or vandals that the residence is unoccupied. To that end, this section of the Code will set out guidelines for distribution of unsolicited handbills.

(b) *Definitions.* For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning given herein:

Handbill means any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature which:

- (1) Advertises for sale any merchandise, product, commodity, service, business, opportunity or thing;
- (2) Directs attention to any business or mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (3) Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged or a collection is taken; or
- (4) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

Private premises means any dwelling house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

Public place means any street, sidewalk, boulevard, alley or other public way and any public park, square, space, ground or building.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway.

(c) *Inhabited private premises; depositing handbills; insignia.* No person shall throw, deposit or distribute any handbill upon any inhabited private premises if the mailbox is specifically marked with the identifying insignia (City of Smyrna green sticker) which signifies the occupant does not wish to receive handbills. The identifying insignia is to be posted on the bottom right corner of the mailbox door.

The insignia will be green, state "HANDBILLS" with the universal insignia for "no" superimposed over "HANDBILLS," and identify the enforcing ordinance, [as shown in Ordinance No. 94-21.]

Residences, such as condominiums and apartments, without individual mailboxes may place the stickers above the handle of the front door (i.e., primary entry door) of the residence. Lack of a mailbox at a residence shall in no way exclude the resident from protection under this section.

(d) *Scattering prohibited; manner of depositing handbills.* Unless inhabited private premises are posted, or unless requested by anyone upon such premises not to do so, the person distributing the handbills may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is placed or deposited in a manner reasonably designed to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when prohibited by federal postal law or regulations.

(e) REPEALED

- (f) *Lampposts; public utility poles; trees; public structures.* No person shall post or affix any handbill, notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole, tree or upon any public structure of a building, except as may be authorized or required by law.
- (g) REPEALED
- (h) *Penalties.*
 - (1) Anyone convicted of violating this section shall be guilty of a misdemeanor and subject to the penalties set forth in the Smyrna Code of Ordinances.
 - (2) Any continuing violation of this section resulting in the unlawful littering of the streets or sidewalks of the city shall be deemed a nuisance and on conviction thereof by the municipal court of the city, the mayor and council may revoke the occupation tax certificate of the violator.
 - (3) Each day a violation occurs shall constitute a separate offense. Each location at which a violation occurs shall constitute a separate offense.

(Ord. No. 94-18, § 3, 12-5-94, eff. 1-1-95; Ord. No. 94-21, §§ 2—2.7, 12-19-94; Ord. No. 97-05, § 2.2, 2-3-97)

Editor's note— Ordinance No. 94-21, adopted Dec. 19, 1994, did not specifically amend this Code; hence, codification of §§ 2—2.7 of said ordinance as § 66-9.1 herein was at the editor's discretion.