

FOR DISCUSSION PURPOSES ONLY

CITY OF SOMERVILLE
ORDINANCE NO. 2014 –
IN THE BOARD OF ALDERMEN:

Be it ordained by the Board of Aldermen in session assembled, that the Code of Ordinances of the City of Somerville is hereby amended by adding the following Sections:

Section _____ DISTRIBUTION OF COMMERCIAL HANDBILLS

Section _____ PURPOSE AND INTENT

(1) The City of Somerville is committed to protecting the public from the nuisance of the indiscriminate distribution of commercial handbills, with the resulting detriment to public health, safety, and welfare. Public interest, convenience, and necessity require the regulation of the distribution of commercial handbills, and to this end the purposes of this ordinance are declared as follows:

- (a) To protect local residents against trespassing by handbill distributors upon the private property of such residents if they have given reasonable notice that they do not desire to receive commercial handbills;
- (b) To protect the people against the health and safety and expenses incident to the littering of the streets and public places by the uncontrolled distribution of commercial handbills; and
- (c) To preserve the people of Somerville's constitutional right to receive and disseminate information.

Section _____ DEFINITIONS

Terms used in this chapter have the following meanings:

(1) Commercial Handbill: Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduces original or copies of any matter or literature:

- (a) Which advertises for sale any merchandise, product, commodity, or thing; or
- (b) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; or

(c) Which, 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.

(2) Newspaper: Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute and regulation, and any a newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto shall mean and include any periodical or current magazine regularly published with not let less than four (4) issues per year, and sold to the public.

(4) Private premises: Any dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited 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.

(5) Public place: Any and all streets, boulevards, avenues, lanes, alleys, or other public ways, and any and all public parks, squares, spaces, plazas, grounds and buildings.

Section _____ DISTRIBUTION AT VACANT PREMISES

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

Section _____ DISTRIBUTION WHERE PROPERLY POSTED

It shall be unlawful for any person to distribute, deposit, place, throw, scatter, or cast any commercial handbill upon any premises if requested by anyone thereon not to do so or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisements," "No Handbills," or any similar notice, indicating in any manner that the occupants of said premises do not desire to have their right of privacy disturbed, or to have any such handbills left upon such premises. It shall be the duty of the owner, landlord or person in control of any premises remaining vacant for a period of more than five (5) days to post in a conspicuous position on the premises such sign as is indicated by this section. The term vacant as used herein shall not be deemed to include temporary absences from the premises by its regular occupants.

Section _____ DISTRIBUTION ON INHABITED PRIVATE PREMISES

No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or any other person then present in or upon such private

premises which are not posted as provided in this chapter. The aforesaid person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere, except that mailboxes may not be used when so prohibited by federal postal laws or regulations.

Section _____ IDENTIFICATION OF PRINTER AND DISTRIBUTOR

It shall be unlawful for any person to distribute, deposit, scatter, hand out or circulate any commercial handbill in any place, under any circumstances, which does not have printed on the cover, front or back thereof, the name and address of the following:

- (a) The person who printed, wrote, compiled or manufactured the same.
- (b) The person who caused the same to be distributed; provided, however, that in the case of a fictitious person or club, in addition to such fictitious name, the true name and address of the owners, manager or agents of the person sponsoring said handbill shall also appear thereon.
- (c) Exemptions. The provisions of this chapter shall not be deemed to apply to:
 - (1) The distribution of mail by the United States, nor to newspapers; or
 - (2) Political or religious literature.

Section _____ VIOLATIONS

The provisions of this ordinance shall be enforced by a noncriminal disposition pursuant to General Laws Chapter 40, section 21D. Each day on which a violation exists shall be deemed a separate offense and shall be punished by a fine specified in Section 1-11(b) of this Code of Ordinances. Nothing in this provision shall be deemed to limit the use of other lawful methods of abating violations of this section, including but not limited to application for equitable relief from a court of law. The City may seek costs and attorney's fees from a Court of competent jurisdiction for any enforcement action taken.

Be it further ordained by the Board of Aldermen, that Section 1-11(b) of the Code of Ordinances is hereby amended by adding the following:

Offense	Fine	Enforcing Personal
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Commercial Handbills	1st offense: \$100	Inspectional Services
	2nd offense: \$200	Division
	3rd and subsequent offense:	
	\$300	

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