

1 [Unsolicited Print Publications--Stop Distribution Notice.]

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3 **Ordinance requiring publishers of unsolicited print publications to provide a toll-free**
4 **number or an e-mail address for residents who do not want to receive such print**
5 **publications; prohibiting the distribution of such print publications to residents who**
6 **request not to receive such print publications; and assessing penalties.**

7 Note: Additions are single-underline italics Times New Roman;
8 deletions are ~~strikethrough italics Times New Roman~~.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. The San Francisco Department of Public Works Code is hereby amended
12 by amending Sections 184.69 – 184.74, to read as follows:

13 SEC. 184.69. DEFINITIONS.

14 For the purposes of this Article:

- 15 (a) "Board" means the Board of Supervisors of the City.
- 16 (b) "City" means the City and County of San Francisco.
- 17 (c) "Department" means the Department of Public Works of the City.
- 18 (d) "Director" means the Director of the Department of Public Works of the City.

19 Director shall mean and include an officer or employee of the City designated to act on the
20 Director's behalf.

- 21 (e) "Handbill" means any handbill, dodger, circular, booklet, card, pamphlet, sheet
22 or any other kind of printed matter or literature which is distributed to or upon any premises in
23 the City. Handbill shall not include a Sign, as that term is defined and regulated by Sections
24 184.56 to 184.68, inclusive, of this Code.

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1 (f) ~~“Newspaper”~~ “Print Publication” means a publication that (1) is printed,
2 published, and circulated at regular intervals, including, but not limited to, daily, weekly, bi-
3 weekly, ~~and~~ monthly, bi-annually, and annually circulation, (2) contains at least 3 separate
4 sheets of paper, and (3) has printed matter on at least one side of the paper.

5 (g) “Unsolicited Print Publication” means a Print Publication distributed to a private
6 premise in the City without the prior consent of the resident.

7 (h) "Person" means any individual person, firm, partnership, association,
8 corporation, company, organization, society, group or legal entity of any kind.

9 (i) “Publisher” means the person responsible for the publication of a Print Publication, as
10 defined by Section 184.69(f), or of an Unsolicited Print Publication, as defined by Section 184.69(g).

11 SEC. 184.70. DISTRIBUTION OF HANDBILLS AND UNSOLICITED PRINT
12 PUBLICATIONS ON PRIVATE PREMISES.

13 (a) Findings. The Board hereby finds and declares that the City has a compelling
14 need to prohibit the distribution of Handbills and Unsolicited Print Publications on private
15 premises where the occupant has expressed his or her unwillingness to receive such
16 ~~Handbills materials~~. Prohibiting distributions of Handbills and Unsolicited Print Publications in
17 defiance of an occupant's expressed desire not to receive them strikes an appropriate
18 accommodation between the rights of distributors to solicit willing listeners with the rights of
19 occupants to object to receive the material.

20 This Ordinance is also aimed at decreasing the adverse effects of the distribution of
21 unsolicited ~~Hand bills~~ Handbills and Unsolicited Print Publications on private premises. The
22 prohibition against ~~delivering distributing~~ Handbills and Unsolicited Print Publications contrary to
23 the expressed desire of the occupant ~~and as well as~~ the requirement that Handbills be folded or
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1 otherwise attached to the outside of a premises will decrease the amount of litter created by
2 Handbills these materials.

3 (b) Prohibition When "No Handbills" Sign Posted. It shall be unlawful for any Person
4 to distribute, cause to be distributed, or suffer, allow or permit the distribution of any Handbill
5 to or upon any private premises in the City by placing or causing any such Handbill to be
6 deposited or placed in or upon any porch, yard, steps, hallway, or mailbox located on, or used
7 in connection with such premises when such premises has posted thereon in a conspicuous
8 place, a notice or notices of at least eight square inches in area bearing the words "No
9 Handbills" or the like, unless such Person has first received the written permission of the
10 occupant of such premises authorizing the Person so to distribute.

11 (c) Conspicuous Notice Must Be Included on Unsolicited Print Publications. A Publisher
12 must include on all Unsolicited Print Publications distributed to a private premise in the City a
13 conspicuous notice, on the first or second page, or affixed to the front page, printed in at least 12 point
14 boldface font, that includes:

15 (1) The statement "If you no longer wish to receive this publication, please call the
16 following toll-free number" and/or "If you no longer wish to receive this publication, please e-mail the
17 following address"; and

18 (2) A toll-free telephone number and/or an e-mail address that a resident may use to
19 notify the Publisher that the resident no longer wants to receive the Unsolicited Print Publication.

20 (d) Prohibition When Resident Has Notified Publisher. A Publisher may not distribute or
21 cause to be distributed, an Unsolicited Print Publication to a private premise in the City seven days
22 from the date the Publisher receives notice that the resident does not want to receive the Unsolicited
23 Print Publication.

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1 (2) Such notice shall be effective for one year from the date when the Publisher was
2 notified that the resident did not want to receive the Unsolicited Print Publication.

3 (e) Distributed Matter To Be Folded. It shall be unlawful for any Person to
4 distribute, cause to be distributed, or suffer, allow or permit the distribution of any Handbill to
5 or upon any private premises in the City by placing or causing any such Handbill to be
6 deposited or placed in or upon any porch, yard, steps, hallway, or mailbox located on, or used
7 in connection with such premises unless the same is folded or otherwise so prepared or
8 placed that it will not be blown therefrom by the winds.

9 SEC. 184.71. EXCLUSIONS.

10 The provisions of this Article shall not apply to: ~~(1) the distribution and delivery of any~~
11 ~~Newspaper or (2) any distribution or delivery-made by a duly authorized public officer or~~
12 employee of or contractor acting with the authority of the City, the State of California, or the
13 United States acting to promote the purpose of the contract.

14 SEC. 184.72. ~~CRIMINAL PENALTIES.~~ ASSESSING PENALTIES.

15 (a) (1) Any person who violates any provision of this Article shall be guilty of an
16 infraction. If charged as an infraction, upon conviction thereof, said person shall be punished by (1) a
17 fine not exceeding \$100.00 for a first violation, (2) a fine not exceeding \$200.00 for a second violation
18 within the same year, and (3) a fine not exceeding \$500.00 for each additional violation within the
19 same year.

20 (2) Any person who violates any provision of this Article or who aids in the violation
21 of any provision of this Article shall be liable for, and the court must award to the individual whose
22 rights are violated, three times the amount of special and general damages.

23 (b) In the event that the City adopts an ordinance creating a procedure for the City
24 Administrator to impose and review Administrative Penalties pursuant to California Government Code
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1 Section 53069.4, the City may impose Administrative Penalties violating any provision of this Article as
2 follows: (1) in an amount not exceeding \$100.00 for the first violation, (2) in an amount not exceeding
3 \$200.00 for the second violation in the same year, and (3) in an amount not exceeding \$500.00 for each
4 subsequent violation in the same year.

5 (c) The City Attorney, or any person aggrieved by a violation of this Article, may seek
6 legal, injunctive, or other equitable relief in a court of competent jurisdiction to enforce any provision
7 of this Article, including without limitation, civil penalties in an amount not exceeding \$200.00 for the
8 first violation, \$400.00 for the second violation, and \$600.00 for each subsequent violation in any given
9 year.

10 (d) The City may not recover both administrative and civil penalties for the same violation.

11 Any Person who violates any provision of this Article shall be guilty of an infraction and upon
12 conviction thereof shall be punished by a fine of not more than \$250.

13 **SEC. 184.73. INVESTIGATION BY DIRECTOR.**

14 The Director shall investigate, or cause to be investigated, all complaints made to the
15 Department regarding the violation of any of the provisions of this Article and take such
16 actions regarding any violation as is provided therein.

17 In undertaking enforcement of this Article, the City, including, but not limited to, the
18 Department, is assuming an undertaking only to promote the general welfare. It is not
19 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
20 is liable in money damages to any Person who claims that such breach proximately caused
21 injury. The obligations this Article imposes on City officials are intended to be directive only.
22 The provisions of this Article shall not be invalidated to the extent City officials do not comply
23 with any obligation imposed herein.

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1 SEC. 184.74. PUBLICATION OF NOTICE.

2 (a) The Director shall publish a copy of this Article once in one or more newspapers
3 of general circulation, post a copy of the Article on or near the front door of the Chamber of
4 Commerce and on a bulletin board in or adjacent to ~~the~~ City Hall for a period of 90 calendar
5 days after its passage, post a copy on-line at www.sfgov.org, the homepage of the City's website,
6 and prominently provide notice of this Article in any material made available to the public
7 regarding the City's regulations of Handbills and Unsolicited Print Publications.

8 The notice requirements of this Section are intended to enhance community awareness
9 of the City's regulations of Handbills and Unsolicited Print Publications. However, the notice
10 requirements shall be given only directive effect. Accordingly, the failure of the Director to
11 provide the notice required by this Section shall not be a defense in any criminal proceeding
12 or civil action brought to enforce the provisions of this Article nor shall such failure relieve any
13 Person of criminal or civil liability for ~~Handbill distributions~~ the distribution of Handbills or
14 Unsolicited Print Publications that violate this Article.

15 (b) Printed Notice. The notice shall state that Publishers of Unsolicited Print Publications
16 are, from the time this ordinance becomes effective, obligated to publish on the first or second page, or
17 affix an opt-out notice on the first page, of its publication. Such notice shall include specific
18 information and language as required by Section 184.70(c)(1)-(2) of this Article. The notice shall
19 include a toll-free telephone number and/or an e-mail address for residents to use to request to be
20 deleted from the distribution list of an Unsolicited Print Publication. A Publisher shall not distribute,
21 or cause to be distributed, its Unsolicited Print Publication seven days from the date that the Publisher
22 receives notice that the resident does not want to receive the Unsolicited Print Publication. In the event
23 that this Article is violated, a cause of action may be brought by a resident or by the City against the
24 Publisher.

1 SEC. 184.75. AUTHORITY TO MAKE RULES, ETC.

2 The Director is empowered to adopt rules, regulations, and interpretations of this
3 Ordinance as he or she may deem necessary and proper to interpret and administer the
4 provisions of this Article provided that the rules, regulations, and interpretations shall not be
5 inconsistent with any of the provisions of this Article.

6 SEC. 184.76. SEVERABILITY.

7 If any of the provisions of this Article or the application thereof to any Person or
8 circumstance is held invalid, the remainder of this Article, including the application of such part
9 or provisions to Persons or circumstances other than those to which it is held invalid, shall not
10 be affected thereby and shall continue in full force and effect. To this end, the provisions of
11 this Article are severable.

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13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: _____
16 VIRGINIA DARIO ELIZONDO
17 Deputy City Attorney

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