CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: 14.d.

Meeting Type: Regular

Meeting Date: Jun 11, 2015

Action Requested By: City Council

Agenda Type: Ordinance

Subject Matter:

Ordinance to amend Article 11, Section 22-1 and Section 22-39 of the Code of Ordinances regarding Handbills.

Exact Wording for the Agenda:

Introduction of an Ordinance to amend Section 22-1 and Section 22-39 of the Code of Ordinances of the City of Huntsville.

Note: If amendment, Please state title and number of the original

Item to be considered for: Introduction

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: 0

Budgeted Item: Not Applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: _____

Date: _____

ORDINANCE NO: 15-_____

BE IT ORDAINED by the City Council of the City of Huntsville, Alabama as follows:

SECTION 1. Chapter 22, Article I, Section 22-1, *Definitions*, of the Code of Ordinances of the City of Huntsville, Alabama is hereby amended by deleting the definition of the term **"handbill"**.

SECTION 2. Chapter 22, Article II, Section 22-39, *Placing of handbills*, of the Code of Ordinances of the City of Huntsville, Alabama is hereby amended to read as follows:

Section 22-39. Depositing of handbills.

(a) *Definitions.* The following words, terms, and phrases, when used in this section, shall have the following meanings ascribed to them, except where the context clearly indicates a different meaning:

Deposit means to deposit, drop, throw, distribute, deliver, or place in or upon real or personal property.

Person in control means an owner, occupant, tenant, or person otherwise in possession or control of private premises, or those authorized to act on their behalf, including as agents, trustees, or guardians.

Handbill means any form of printed or written matter, including commercial or non-commercial handbills, handouts, fact sheets, advertisements, circulars, leaflets, folders, pamphlets, pictures, newspapers, magazines, or literature. The term does not include mail from the United States Postal Service or legal notices that are required by law to be posted on property.

Private premises means occupied or un-occupied private land, any buildings, structures, or improvements thereto, and that portion of the public right-of-way adjacent to the property that the person in control of the property maintains or is required to maintain, including sidewalks, alleys, and yards. The term includes private residential premises.

Private residential premises mean private premises improved with a residential dwelling, whether occupied or unoccupied, including accessory structures and improvements, the driveway or walkway leading to the dwelling, and that portion of the public right-of-way that the person in control of the property

maintains or is required to maintain, including the sidewalk and yard.

Responsible person means the person for whom the unsolicited handbills are being deposited, including the publisher, advertiser, promoter, fundraiser, candidate, advocate, or seller.

Unsolicited handbills mean handbills deposited or intended to be deposited on private premises without the consent of the person in control of the premises.

Vehicle means a motorized or non-motorized vehicle.

(b) *Depositing handbills on vehicles.* It shall be unlawful for any person to deposit any handbill upon a vehicle that is not their own or in their possession and that is parked or otherwise located upon any private property or public street, highway, sidewalk, road, alley, park, or other public property within the city; however, such matter may be transmitted directly to the owner, occupant, or other person then present that is willing to accept the handbill.

(c) *Depositing handbills on private premises.*

(1) It shall be unlawful for any person to deposit any handbill in or upon any private premises within the city; however, subject to subsection (d) and (e) below, such handbill may be transmitted directly to the person in control of the private premises or other person then present in or upon such private premises that is willing to accept it or may be deposited in a box, container, or manner to prevent such handbill from being scattered, blown, carried, or otherwise subjected to the elements.

(2) Notwithstanding anything to the contrary in this section, it shall be unlawful for any person to knowingly deposit an unsolicited handbill in or upon private premises that are vacant or unoccupied where it is apparent that such property is unoccupied or where it is apparent that handbill deposited on previous days have not been removed.

(d) *Refusal to accept unsolicited handbills by posting private residential premises.*

(1) *Posting of notice.* The person in control of private residential premises within the city may refuse to accept unsolicited handbills in advance by posting on said premises, in a conspicuous, readily visible location, a sign of sufficient size bearing the words "No Handbills", "No Trespassing", "No Solicitation", or words of similar import.

(2) *Effect of notice.* Any such sign so exhibited shall constitute sufficient notice to any person that the person in control of the posted private residential premises is unwilling to accept unsolicited handbills.

(3) *Duty to abide by notice.* It shall be the duty of every person that intends to deposit unsolicited printed materials on private residential premises in the city to first examine for the notice provided for in this subsection (d) and, if one is found to exist, it shall unlawful to deposit unsolicited handbills in or upon such premises.

(e) *Refusal to accept unsolicited handbills on private residential premises by advance notice.*

(1) In addition to or in lieu of posting the premises in accordance with subsection (d) above, a person in control of private residential premises may provide advance written notice, as prescribed in subsection (2) below, to the responsible person that they are unwilling to accept unsolicited handbills on their premises.

(2) Written notice shall: (i) be sent by certified mail, return receipt requested, to the responsible person, (ii) state the name and contact information of the person providing the notice, (iii) state the purpose of the notice, and (iv) give the street address of the private residential premises. The notice shall become effective 14 days after receipt of the request and shall, unless renewed in December of each year for the next calendar year, expire at the end of each calendar year.

(3) After the notice becomes effective, it shall be unlawful for the responsible person to deposit or allow or cause to be deposited unsolicited handbills in or upon the private residential premises identified in the notice.

(4) The person in control of the private residential premises that sent the notice provided for in this subsection shall be responsible for initiating the enforcement of a violation of this subsection (e).

(f) It shall also be unlawful for any person to attach or affix in any manner or cause the attachment of any handbill to any property, real or personal, public or private, without the consent of the owner, except as may be otherwise permitted by this section or this Code.

Section 3. The severability provisions of section 1-8 of the Code of Ordinances of the City of Huntsville, Alabama are specifically included herein by reference as if fully set forth.

Section 4. This Ordinance shall become effective upon its adoption and approval.

ADOPTED this the _____ day of _____, 2015.

_____
President of the City Council
Of the City of Huntsville, Alabama

APPROVED this the _____ day of _____, 2015.

_____
Mayor of the City of
Huntsville, Alabama