

Introduced by Councilmember \_\_\_\_\_

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF PASADENA  
REGARDING THE DISTRIBUTION OF UNSOLICITED  
WRITTEN MATERIAL, AMENDING CHAPTERS 5.20 AND  
8.64, AND ADDING A NEW CHAPTER 9.44 TO THE  
PASADENA MUNICIPAL CODE

The People of the City of Pasadena ordain as follows:

SECTION 1. Findings and Intent.

A. The City Council finds that unsolicited written material is distributed, on a regular basis, to businesses and residences within the City. The City Council further finds that such distribution constitutes: (i) an invasion of the privacy of unwilling recipients; (ii) a cause of litter within the community; and (iii) a crime inducement when unsolicited written material accumulates at properties where the owner is absent.

B. The City Council recognizes that municipalities may not make it unlawful to distribute unsolicited written materials to private residences without the prior consent of the homeowner. Van Nuys Pub. Co. v. City of Thousand Oaks, 5 Cal.3d 817 (1971). The City Council also is cognizant that municipalities may not restrict the distribution of unsolicited written material on the basis of category of publication. City of Fresno v. Press Communications, Inc., 31 Cal.App.4th 32 (1994).

C. The purpose of this Ordinance is to mitigate the negative impacts generated by the distribution of unsolicited written material. In enacting this Ordinance, the City Council intends to prohibit the distribution of all types of unsolicited written material in defiance of the previously expressed will of the recipient.

SECTION 2. Section 5.20.070 of Chapter 5.20 of Article II of Title 5 of the Pasadena Municipal Code is hereby deleted.

SECTION 3. Section 5.20.090 of Chapter 5.20 of Article II of Title 5 of the Pasadena Municipal Code is hereby deleted.

SECTION 4. Article IV of Title 9 of the Pasadena Municipal Code is hereby amended to add a new Chapter 9.44 to read as follows:

6/22/98  
9.B.1.

## **"Chapter 9.44**

### **DISTRIBUTION OF UNSOLICITED WRITTEN MATERIAL**

#### **9.44.010 Definitions.**

For the purpose of this chapter, unless it is plainly evident from the context that a different meaning is intended, the following definitions shall apply:

A. "Finance director" shall mean the director of finance of the City of Pasadena, or the authorized designee thereof.

B. "Distribute" shall mean the act of throwing, casting, scattering, or depositing.

C. "Person" shall mean any individual, firm, partnership, association, corporation, company or organization of any kind.

D. "Refusal register" shall mean the most recent edition of the Unsolicited Written Material Refusal Register maintained by the finance director in accordance with this chapter.

E. "Unsolicited written material" shall mean written material that is delivered to a business or residence in the absence of a subscription agreement.

F. "Written material" shall mean any handbill, pamphlet, circular, newspaper, paper, booklet, poster, leaflet or other printed matter.

#### **9.44.020 Refusal register.**

A. The finance director shall maintain a list of those businesses and residences whose owners or occupants have submitted a written expression of their unwillingness to receive unsolicited written material. Such list shall be known formally as the "Unsolicited Written Material Refusal Register."

B. The finance director shall update the refusal register on a quarterly basis, as necessary.

C. The finance director shall, upon payment of a fee in an amount established by resolution of the city council to cover the direct costs of duplication, provide a copy of the refusal register to any person.

#### **9.44.030 Distributors required to carry refusal register.**

It shall be unlawful for any person to distribute unsolicited written material unless he or she has, upon his or her person, a copy of the refusal register.

**9.44.040 Regulations governing distribution.**

It shall be unlawful for any person to distribute unsolicited written material, or to cause unsolicited written material to be distributed, in violation of the following regulations:

A. Unsolicited written material shall not be distributed to any business or residence that is listed on the refusal register.

B. Unsolicited written material shall not be distributed to any business or residence that contains a "no solicitation" sign conspicuously posted on, or near, the entrance or front door.

C. Unsolicited written material shall not be distributed to any business or residence that contains unremoved unsolicited written material of the same publisher.

D. Unsolicited written material shall not be distributed to any business or residence that reasonably appears to be vacant. For purposes of this provision, "reasonably appears to be vacant" shall mean that the business or residence does not contain any interior furnishings that are visible from the public right-of-way.

E. Unsolicited written material shall not be distributed to any business or residence at any location other than at the doorknob or doorstep of such premises.

**9.44.050 Unlawful distributions designated litter.**

All unsolicited written material that is distributed in violation of Section 9.44.040 is hereby designated as litter.

**9.44.060 Exemptions.**

The provisions of this chapter shall not apply to the following:

A. The distribution of United States mail, telegrams or other matter preempted by state or federal law.

B. The posting of legally required notices.

C. Distribution of any notices or other written material by persons employed by or acting at the behest of the City, State of California or the federal government.

**9.44.070 Violation--Penalty**

Violation of any of the provisions of this chapter is a misdemeanor, punishable by the general penalty of Chapter 1.24 of this code."

SECTION 5. Paragraph (C) of Section 8.64.020 of Chapter 8.64 of Title 8 of the Pasadena Municipal Code is hereby amended to read as follows:

"C. "Litter" means garbage, refuse and rubbish as defined herein and all other material which, if thrown, deposited or allowed to accumulate as herein prohibited, tends to create a danger to the public health, safety and welfare, and which is not within a receptacle provided therefor. "Litter" shall also mean any solid, liquid or semisolid substance or matter which is thrown, propelled, tossed, hurled or dropped upon any public place or sidewalk, or at or upon any person, animal or vehicle which is then participating in a "special event" as defined in Section 2.33.010. "Litter" shall also mean any unsolicited written material, as defined in Section 9.44.010, that is distributed in violation of Section 9.44.040."

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of the Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 7. This ordinance shall take effect 30 days after publication.

Signed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
Chris Holden  
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held \_\_\_\_\_, 1998, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Jane L. Rodriguez  
City Clerk

APPROVED AS TO FORM:

  
Michele Beal Bagneris  
City Attorney