

ORDINANCE NO. 1618

AN ORDINANCE OF THE CITY OF COCOA BEACH, FLORIDA, CREATING A NEW SECTION 15-35, "DISTRIBUTION OF UNSOLICITED MATERIALS", OF CHAPTER 15, "OFFENSES," OF THE COCOA BEACH CODE OF ORDINANCES, MAKING FINDINGS, PROVIDING DEFINITIONS, PROHIBITING CERTAIN ACTS AND EXCEPTIONS, AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, the City Commission recognizes an individual's first amendment right of free speech and that some kinds of distribution of unsolicited newspapers, handbills, advertisements, or other paper materials have first amendment implications; and

WHEREAS, the City Commission finds that the indiscriminate throwing of unsolicited newspapers, handbills, advertisements, or other paper materials on lawns, driveways, rights of way, or porches, when such materials can be blown around, can cause unsightly littering, visual blight and eyesores, the clogging of storm drains, and damage to waterways, and can cause the general decrease in the aesthetic quality of neighborhoods with associated lowering of property values and lowering of property tax receipts; and

WHEREAS, the City of Cocoa Beach has a substantial public interest in maintaining the aesthetic qualities of its neighborhoods, the maintenance of cleanliness and beauty of its homes and streets, and in preventing littering; and

WHEREAS, it is the intent of the City of Cocoa Beach in this ordinance to narrowly tailor its restrictions to serve its substantial public interests, and to only put reasonable time, place and manner restrictions on the exercise of free speech as reflected in the distribution of unsolicited newspapers, handbills, advertisements, or other paper materials; and

WHEREAS, the collection of numerous unsolicited newspapers, handbills, advertisements or other paper materials at unoccupied houses is unsightly and also contributes to the potential for crime since they draw attention to such houses and their unoccupied status; and

WHEREAS, it is reasonable to believe that when newspapers, handbills, advertisements or other paper materials are specifically desired and solicited by homeowners, such homeowners will both collect these materials before they become litter or eyesores, and assume the responsibility, as they do with other home door-step deliveries, to suspend delivery or to arrange for these materials to be picked up in their absence, thus making the regulation of specifically solicited materials unnecessary to accomplish the goals of this ordinance; and

WHEREAS, the City Commission finds establishing an ordinance to address and prevent the indiscriminate throwing of unsolicited newspapers, handbills, advertisements, or other paper materials on lawns, driveways, rights of way, or porches, or placed on any unoccupied vehicle, when such materials can be blown around, can cause unsightly littering and the clogging of storm drains, and damage to waterways, and can cause the general decrease in the aesthetic quality of neighborhoods with associated lowering of property values; and

WHEREAS, the regulations of this ordinance constitute the minimum regulations necessary relating to the time, place and manner of the distribution of unsolicited newspapers, handbills, advertisements, or other paper materials, while at the same time providing a reasonable method of delivering such materials to homes and persons without violating the provisions of this ordinance.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCOA BEACH, FLORIDA:

SECTION 1. The foregoing "Whereas" clauses are true and correct and are hereby ratified and confirmed by the City Commission.

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SECTION 2. Section 15-35, "*Distribution of Unsolicited Materials*", of Chapter 15, "*Offenses*" of the Code of Ordinances of the City of Cocoa Beach is hereby created to read as follows:

Sec. 15-35. Distribution of Unsolicited Materials

(a) As used in this section, the following definition are applicable:

(1) *Door Hanger* means i) a plastic or cardboard sign cut to hang from the handle or knob of a door, and/or ii) a bag supported by a rubber band, twist tie or other hanger, which contains materials and is hung from the handle or knob of a door.

(2) *Materials* means newspapers, handbills, advertisements, or other similar paper materials, whether or not located inside a plastic or other wrapper or bag.

(3) *Solicited materials* means materials specifically requested or purchased by the homeowner.

(4) *Unsolicited materials* means materials not specifically requested or purchased by the homeowner.

(b) It shall be unlawful for any person or entity, directly or through an agent, independent contractor, or employee, to distribute, throw, deposit or place, or cause to be distributed, thrown, deposited or placed, any unsolicited material on any right of way, yard, driveway or porch, or on any unoccupied vehicle within the City of Cocoa Beach. Unsolicited materials may be handed to any person, or may be hung on any handle or knob of any door.

(c) It shall be unlawful for any person or entity, directly or through an agent, independent contractor, or employee, to deposit or place, or cause to be deposited or placed, any door hanger or unsolicited material on any handle or knob of any door earlier than 9:00 a.m. on any day and after 6:00 p.m., during the months of standard time, and after 7:00 p.m. during the months of daylight savings time, unless the person or entity has the express permission of the property owner or resident prior to actions.

(d) The provisions of this Section shall not apply to door hangers or materials left by any governmental representative, the U.S. Postal Service, or by any recognized delivery service such as Federal Express, UPS, or similar services.

(e) Any person who violates or fails to comply with any provisions of this section "Littering" shall be subject to the following:

(1) The issuance of Class V citation in accordance with the provisions of City Code Chapter 30; or,

(2) Enforcement by other means including, but not limited to: a summons; a notice to appear in the county or circuit court; an arrest; an action before the special magistrate/code enforcement board; or a civil action for injunctive relief; or,

(3) Punished in accordance with general penalty set forth in Chapter 1, section 1-8 of this Code.

SECTION 3. CONFLICTS. All Ordinances or parts of Ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any conflict.

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SECTION 4. CODIFICATION. The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Cocoa Beach. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

SECTION 5. SEVERABILITY. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become in full force and effect upon adoption in accordance with the Charter of the City of Cocoa Beach, Florida.

Upon Motion by Commissioner Martinez, seconded by Commissioner Miller, this Ordinance was duly adopted at a Regular Meeting of the City Commission of the City of Cocoa Beach, Florida, held on the 5 day of April, 2018.

Ayes:	<u>5</u>
Nays:	<u>0</u>
Absent or Abstaining	<u>0</u>

Ben Malik
Mayor-Commissioner

ATTEST:

Loredana Kalaghchy
Loredana Kalaghchy, MMC
City Clerk

First Reading:	<u>03-15-18</u>
Date Posted:	<u>03-19-18</u>
Date Published :	<u>03-22-18</u>

