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**ORDINANCE NO. 2014-06**

**AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA, PERTAINING TO HEALTH, SAFETY AND WELFARE; REVISING SECTION 14-118 OF THE TOWN'S CODE OF ORDINANCES REGARDING THE RESTRICTIONS ON DISTRIBUTING HANDBILLS; ADDING A NEW SECTION 14-121 TO THE CODE OF ORDINANCES TO PROVIDE RESTRICTIONS AND REGULATIONS CONCERNING THE DISTRIBUTION OF UNSOLICITED ADVERTISING MATERIAL AT RESIDENCES WITHIN THE TOWN; ADDING A NEW SECTION 14-122 TO PROVIDE PENALTIES FOR UNLAWFUL DISTRIBUTION OF ADVERTISING MATERIAL; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

*Whereas*, residents of the Town of Windermere have recently begun receiving a large amount of unsolicited advertising materials.

*Whereas*, such advertising materials are being placed or hung on mail boxes or deposited upon other portions of private property without the consent of the owners or occupiers of the property.

*Whereas*, unless the advertising materials are picked up by the residents within a reasonable period of time, the presence of such advertising materials are a clear indication that the residence is unoccupied, thus increasing the possibility of vandalism and burglary.

*Whereas*, frequently such advertising materials are not deposited upon private property and instead land on the town's public right-of-way, are not picked up by the publisher, thus littering and dirtying the streets and sidewalks

*Whereas*, furthermore, the advertising materials must be picked-up and thrown away by town employees, thus utilizing tax-payer money.

*Whereas*, when advertising materials are solicited by residents, the residents are aware of such advertising materials and have an opportunity to collect the materials before they can become litter or an safety issue.

*Whereas*, when advertising materials are solicited by residents, the residents are able to 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.

*Whereas*, the Town Council recognizes the constitutional right of any person to disseminate information, including information of a commercial nature.

*Whereas*, because the distribution of unsolicited advertising identifies vacant residences as potential targets for burglary, vandalism and other crimes and dirties the streets and sidewalks,

46 the Town Council hereby finds that adopting reasonable rules and regulations pertaining to  
47 unsolicited advertising will protect the public health, safety and welfare.

48  
49 **BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE**

50  
51 **Section 1. Amendments to the Town of Windermere’s Code of Ordinances.** Section 14-118  
52 of the Town of Windermere’s Code of Ordinances is hereby revised as indicated by the  
53 following strike-through and underlined language:

54  
55 **Sec. 14-118. Distributing handbills, etc.; throwing Throwing advertisements**  
56 **into vehicles or upon property.**

57  
58 ~~It shall be unlawful to distribute to the pedestrians upon any street, park or other~~  
59 ~~public place in the town. It is unlawful to distribute to passengers in any bus, or~~  
60 ~~to throw into or upon any bus or automobile or other vehicle, any handbill, dodger~~  
61 ~~or advertising notice of a commercial character. It shall also be unlawful for any~~  
62 ~~person to distribute or deposit any handbill, advertising, notice, printed matter or~~  
63 ~~rubbish upon any real property located in the town, without the consent of the~~  
64 ~~owner thereof.~~

65  
66 **Section 2. Amendments to the Town of Windermere’s Code of Ordinances.** A new Section  
67 14-121 is hereby added to the Town of Windermere’s Code of Ordinances as indicated by the  
68 following underlined language:

69  
70 **Sec. 14-121. Distributing unsolicited advertising material at residences.**

71  
72 It shall be unlawful for any person, firm or corporation to distribute advertising  
73 materials at a residence within the Town of Windermere (other than at the home  
74 of the person, firm or corporation distributing the same) by placing such material  
75 at the residence, on the property or on the residential mailbox of the person  
76 owning or occupying the residence unless the person, firm or corporation, its  
77 agents, servants, employees and/or independent contractors distributing such  
78 advertising materials:

- 79  
80 a) Is making such distribution based upon an affirmative request or consent of  
81 the person occupying the residence; or  
82  
83 b) Is making such distribution through the use of the United States mail service;  
84 or  
85  
86 c) Is making such distribution through a procedure whereby a resident can notify  
87 the person, firm or corporation, its agents, servants, employees and/or  
88 independent contractors of a desire not to receive unsolicited distributed  
89 materials and such procedure provides for:  
90

- 91 1. The honoring of “no distribution” requests from a Town of  
92 Windermere resident by not leaving or otherwise distributing any  
93 materials to residents from whom such person, firm or corporation, its  
94 agents, servants, employees and/or independent contractor has  
95 received a “no distribution” request; and  
96  
97 2. The patrolling and monitoring of a service area of a person, firm or  
98 corporation, its agents, servants, employees and/or independent  
99 contractors on a weekly basis and the collection of unwanted and/or  
100 unclaimed materials distributed by such person, firm or corporation  
101 within one week of its delivery; and  
102  
103 3. The termination of distribution of materials within one week by a  
104 person, firm or corporation, its agents, servants, employees and/or  
105 independent contractors to a residence where prior materials have not  
106 been picked-up or claimed.  
107

108 **Section 2. Amendments to the Town of Windermere’s Code of Ordinances.** A new Section  
109 14-122 is hereby added to the Town of Windermere’s Code of Ordinances as indicated by the  
110 following underlined language:  
111

112 **Sec. 14-122. Penalties.**  
113

114 Violations of any provision of this Article may be enforced by the Town’s police  
115 department and violators may be fined three-hundred dollars per violation or such  
116 other amount as may be specified by resolution adopted from time-to-time by the  
117 Town Council. Each unlawful distribution of advertisements to a residence or  
118 posting or pasting of advertisements shall be considered a separate violation.  
119 Additionally, if a person has violated or continues to violate the provisions of this  
120 article, the Town may obtain an injunction or other legal or equitable relief in the  
121 circuit court.  
122

123 **Section 3. Severability.** If any provision or portion of this ordinance is declared by a court of  
124 competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining  
125 provisions and portions of this ordinance shall remain in full effect.  
126

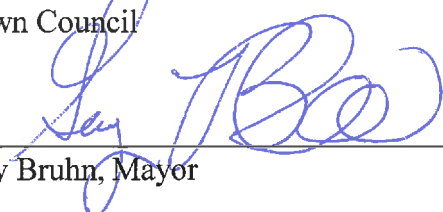
127 **Section 4. Codification.** The provisions of this Ordinance shall become and be made a part of  
128 the town’s Code of Ordinances.  
129

130 **Section 5. Effective Date.** This Ordinance takes effect immediately upon its enactment.  
131


132 **ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2014, at a regular meeting of the Town Council of  
133 the Town of Windermere, Florida.  
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Town of Windermere, Florida  
by: Town Council

by:   
\_\_\_\_\_  
Gary Bruhn, Mayor

Attest:

  
\_\_\_\_\_  
Dorothy Burkhalter, CMC  
Town Clerk

First reading: June 10, 2014  
Second reading: July 8, 2014

