

**CITY OF SAMMAMISH
WASHINGTON**

ORDINANCE NO. O2020 - 511

**AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON,
ADOPTING A NEW CHAPTER 5.45 TO THE SAMMAMISH MUNICIPAL
CODE RELATING TO THE DISTRIBUTION OF UNSOLICITED OR
UNSUBSCRIBED LITERATURE ON PRIVATE PROPERTY;
PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN
EFFECTIVE DATE**

WHEREAS, the distribution of unsolicited and unsubscribed commercial advertising material and other unwanted literature or materials upon residential properties creates unsightly and unhealthy widespread litter in the City; and

WHEREAS, many elderly and disabled residents are unable to remove or dispose of such accumulated materials, which materials become a nuisance when blown around neighborhoods by wind, wet and destroyed by the elements, or run over by vehicles;

WHEREAS, the distribution of unsolicited and unsubscribed commercial advertising material and other unwanted literature or materials upon residential properties creates a security concern for residents when such materials accumulate in the City; and

WHEREAS, such accumulations can send signals to nefarious persons that residents are not home, thereby increasing the risk of burglary of homes and robbery of residents; and

WHEREAS, unsolicited and unsubscribed commercial advertising material, literature, or other written materials also enter into and clog City storm drains and drainage facilities, which can contribute to and cause street flooding, when such material is allowed to accumulate, scatter and degrade from the weather conditions; and

WHEREAS, such materials also cause damage to property when allowed to enter into private and public creeks and waterways, sloughs, watershed lands, and other protected areas; and

WHEREAS, certain exemptions are included for legally required processes and notices, and other distributors whose deliveries are infrequent or do not significantly contribute to the litter and security issues identified by the City Council and public; and

WHEREAS, exempt distributors' deliveries are less bulky and less likely to clog or impede the City's storm water collection system; and

WHEREAS, to address the security, nuisance and litter issues, all distributors must secure their literature in such a way that the literature does not scatter or decompose due to weather conditions, and so that the literature is out of clear view from public rights-of-way; and

WHEREAS, vendors and distributors who operate in the City have a history of ignoring their own refusal of consent registry or programs; and

WHEREAS, access to the refusal of consent registry set forth in this Ordinance will be available on the City’s website and at City Hall; and

WHEREAS, this narrowly tailored regulation, which requires those who desire to deliver literature comply with reasonable, clear, open and accessible information regarding residents’ refusal of consent to receive such materials, reduces or prohibits the unwanted, unsolicited and unsubscribed literature from being delivered to residences in the City, and reasonably requires all such deliveries comply with this Ordinance; and

WHEREAS, a content-neutral annual exclusion does not unreasonably lead to additional litter or security issues, and provides additional opportunities for delivery of literature for those who do not have access to the refusal of consent registry or other methods of notice, provided they comply with this Ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Chapter 5.45 SMC, Adopted. A new Sammamish Municipal Code Chapter 5.45, to be entitled “Delivery of Unsolicited or Unsubscribed Literature on Private Property”), is hereby adopted to read as set forth in Exhibit A attached hereto and incorporated herein by this reference as if fully set forth herein.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

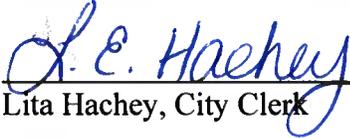
**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF
ON THE 15TH DAY OF SEPTEMBER, 2020.**

CITY OF SAMMAMISH



Mayor Karen Moran

ATTEST/AUTHENTICATED:



Lita Hachey, City Clerk

Approved as to form:



Michael R. Kenyon, City Attorney

Filed with the City Clerk:	September 10, 2020
First Reading:	September 15, 2020
Public Hearing:	September 15, 2020
Passed by the City Council:	September 15, 2020
Date of Publication:	September 18, 2020
Effective Date:	September 23, 2020

EXHIBIT A

Sections:

5.45.010 Purpose.

5.45.020 Definitions.

5.45.030 Unlawful distribution of unsubscribed or unsolicited literature; Nuisance.

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5.45.070 Exemptions.

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5.45.090 Penalties.

5.45.100 Severance.

5.45.010 Purpose.

The purpose of this chapter is to acknowledge and achieve the following:

A. The distribution of unsolicited and unsubscribed commercial advertising material and other unwanted literature or materials upon residential properties creates unsightly and unhealthy widespread litter in the City. Also, many elderly and disabled residents are unable to remove or dispose of such accumulated materials, which materials then become a nuisance when blown around neighborhoods by wind, wet and destroyed by the elements, or run over by vehicles.

B. The distribution of unsolicited and unsubscribed commercial advertising material and other unwanted literature or materials upon residential properties creates a security concern for residents when such materials accumulate in the City. Such accumulations can send signals to nefarious persons that residents are not home, thereby increasing the risk of burglary of homes and robbery of residents.

C. Unsolicited and unsubscribed commercial advertising material, literature, or other written materials also enter into and clog City storm drains and drainage facilities, which can contribute to and cause street flooding, when such material is allowed to accumulate, scatter and degrade from the weather conditions. Such materials also cause damage to property when allowed to enter into private and public creeks and waterways, sloughs, watershed lands, and other protected areas.

D. Certain exemptions are included for legally required processes and notices, and other distributors whose deliveries are infrequent or do not significantly contribute to the litter and security issues identified by the City Council and public. Moreover, such exempt distributors' deliveries are less bulky and less likely to clog or impede the City's storm water collection system. In addition, to address the security, nuisance and litter issues, all distributors must secure their literature in such a way that they do not scatter or decompose due to weather conditions and are out of clear view from public right-of-ways.

E. Vendors and distributors who operate in the City have a history of ignoring their own refusal of consent registry or programs.

F. Access to the refusal of consent registry set forth in this chapter will be available on the City's website and at City Hall.

G. This narrowly tailored regulation, which requires those who desire to deliver literature comply with reasonable, clear, open and accessible information regarding residents' refusal of consent to receive such materials, reduces or prohibits the unwanted, unsolicited and unsubscribed literature from being delivered to residences in the City, and reasonably requires all such deliveries comply with this chapter.

H. A content-neutral annual exclusion does not unreasonably lead to additional litter or security issues, and provides additional opportunities for delivery of literature for those who do not have access to the refusal of consent registry or other methods of notice, provided they comply with this chapter.

5.45.020 Definitions.

A. "Literature" means single- or multi-page bounded or unbounded printed or reproduced written materials of any kind, including but not limited to pamphlets, telephone directories, books, magazines, newspapers, handbills, circulars, announcements, or any other paper literature on any medium or material.

C. "Person" means any individual, firm, partnership, joint venture, association, social club, league, fraternal organization, corporation, limited liability company, limited liability partnership, estate, trust, business trust, receiver, trustee, syndicate or any other group acting as a unit.

D. "Unsolicited" means a recipient has not requested, given permission, or has refused to receive literature as defined by this Section.

E. "Unsubscribed" means a recipient does not have a paying subscription or other agreement to receive literature as defined by this Section.

5.45.030 Unlawful distribution of unsubscribed or unsolicited literature; Nuisance.

A. It is unlawful and a declared nuisance for any person to distribute, deposit, place, throw, scatter, cast, peddle, pass out, give away, or circulate any literature, for which no charge is made to the recipient thereof, or any substance, at any place on the grounds, yards, lawns, driveways, steps, porches, or in front of, or upon the front entry door, or door knob, of any single-family residence, single-family residential building, or any residential building having more than one dwelling unit, or in any entry or hallway or on any stairs, or at or upon the front entry door, or door knob, of any dwelling unit, in any such multiple-unit residential building, in the City, at any time when:

1. There is on file in the office of the City Clerk an affidavit or a declaration signed under the penalty of perjury that the person is an owner, manager or occupant of such residence, building or dwelling unit described therein and stating that such person refuses consent for any literature to be left at the place so described, or that the owner, manager or occupant has notified the distributor as provided in SMC 5.45.040(B); or
2. The owner, manager or occupant of such residence, building or dwelling unit has posted a sign as provided in SMC 5.45.040(A).

B. This Section shall not affect violations for littering asserted or charged under other chapters of the municipal code, or state or federal law.

5.45.040 Notice to distributors of unsolicited or unsubscribed literature.

The notice to distributor or the affidavit or declaration to the City Clerk refusing consent referred to in Section 5.45.030 may be given by an owner, occupant, or resident of property to a distributor of literature that such literature is not wanted by one or more of the following methods:

A. By posting on the property or near the front door or main entrance of the property a sign at least 16 square inches in surface area stating, in effect, "No Pamphlets," "No Unsubscribed or

Unsolicited Literature,” or words of similar meaning describing a clear desire not to receive literature at the property;

B. By written or electronic communication to the distributor of such literature at the address or email address provided by the distributor; and/or

C. By filing a refusal of consent affidavit or declaration as set forth in SMC 5.45.050 with the City Clerk, who shall post the refusal of consent on the City’s website.

5.45.050 Noncompliance with refusal of consent filed with City Clerk.

A. The refusal of consent affidavit or declaration as described in SMC 5.45.030 may be filed with the City Clerk without charge at any time. Upon filing, the affidavit or declaration shall be open to inspection by the public at City Hall, and the addresses of those refusing consent posted on the City website and available at all times. The refusal of consent affidavit or declaration filed with the City Clerk shall become effective 60 days after such filing, so as to provide reasonable opportunity for distributors to respond to additions and deletions to the refusal of consent registry on the City website or at City Hall.

B. A person may revoke his or her refusal of consent by filing with the City Clerk an affidavit or declaration signed under the penalty of perjury that such person no longer desires to be subject to the refusal of consent previously filed with the City. Such revocation may be filed with the City Clerk at any time without charge and shall be effective upon such filing. Any such refusal of consent affidavit or declaration filed by an owner or manager of, and any such revocation pertaining to, a multiple-unit residential building shall not apply to the front entry door of any dwelling unit in such a building.

C. Any such refusal of consent affidavit or declaration filed with the signature of an owner, manager or occupant of, and any such revocation pertaining to, a dwelling unit in a multiple unit residential building shall apply only to the dwelling unit owned or occupied by such person or to which such revocation pertains. No such refusal of consent shall be effective after the person who signed it has ceased to be an owner, manager or occupant of the premises described in such refusal of consent.

D. No person shall leave literature in the City, unless such person has first examined all refusal of consent affidavits and/or declarations filed with the City Clerk. Refusals of consent shall be valid for five years without limit on the number of refusals of consent that may be requested for each residence, apartment, or dwelling unit.

5.45.060 Methods of distribution.

Any literature exempted from this chapter shall only be distributed if:

- A. Placed in the hand of the intended recipient;
- B. Bound, folded, boxed or weighted in such a manner that the material cannot be blown away, scattered, or otherwise fragmented by weather conditions and/or normal pedestrian or vehicular traffic; or
- C. Deposited on the premises for which it is intended by being tied to, affixed, slipped over a doorknob or other protrusion, or placed through a slot or opening in a front entry door or within a receptacle for such items located upon the property, or placed on the front porch next to the front entry door; provided, however, the item being distributed first shall have been rolled up and secured with a rubber band or in some other manner so as to prevent the materials from being blown away, scattered, or otherwise fragmented by weather conditions and/or normal pedestrian or vehicular traffic. As used in this section, “receptacle” means a container made of a stiff material containing the words “For Papers,” or similar words.

5.45.070 Exemptions.

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

- A. Mail deliveries by the United States Postal Service;
- B. Deliveries by private postal or package delivery services;
- C. Literature delivered by federal, state or local governmental agencies;
- D. Notice of any lien, foreclosure, or sale of the real property on which such notice is placed;
- E. Legally authorized notice or process;
- F. Literature delivered no more frequently than one time per calendar year by any person;
- G. Literature delivered by a person on behalf of a nonprofit organization, a registered campaign committee, a federal, state or local candidate or a state or local initiative or referendum, provided said delivery complies with the provisions of Section 5.45.060; and
- H. The distribution or delivery of any subscription literature to any person pursuant to that person’s request or consent, or to any hotel, inn, motel or other such public accommodations, provided said delivery complies with the provisions of Section 5.45.060.

5.45.080 Presumptions, removal and costs required.

A. Literature distributed in violation of this chapter is subject to summary removal by the owner, manager or occupant of the property upon which the literature is placed or affixed, or by the City Manager or his or her designee. The costs of removal may be assessed in accordance with law or as provided in the municipal code against the person responsible for the violation. It shall be a rebuttable presumption that any person whose information is displayed on literature is the party responsible for the distribution.

B. Distribution of literature requested by the owner or occupant of a property and undertaken in the ordinary course of business, including but not limited to deliveries of utility notices, telephone directory deliveries, regular newspaper deliveries, work order notices and service inquiries, are presumed to be requested or invited for the purpose of this section, but must comply with the requirements of Section 5.45.060.

C. It shall be a rebuttable presumption that a person distributing literature has received actual notice of a refusal of consent where an owner, occupant, or resident of property appears on the refusal of consent registry or has provided notice as provided in Section 5.45.040.

5.45.090 Penalties.

Each distribution of unsubscribed or unsolicited literature in violation of an owner, manager or occupant's Notice set forth in 5.45.040 shall constitute a separate offense and shall be assessed a \$500 civil penalty.

5.45.100 Severance.

If any section, subsection, clause or phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of all other provisions of this chapter.