

**ORDINANCE NO. O2019-60**

**AN ORDINANCE TO ENACT SECTION 660.22 (UNSOLICITED MATERIALS) OF THE MIDDLETOWN CODIFIED ORDINANCES.**

**BE IT ORDAINED**, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio, that:

**Section 1**

Section 660.22 (Unsolicited Materials) of the Codified Ordinances is hereby enacted to read as set forth in Exhibit "A", attached hereto and incorporated by reference.

**Section 2**

This ordinance shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
Lawrence P. Mulligan, Jr., Mayor

1<sup>st</sup> Reading: October 1, 2019

2<sup>nd</sup> Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

Effective: \_\_\_\_\_

Attest: \_\_\_\_\_

Clerk of the City Council

## EXHIBIT "A"

### MCO §660.22 (Unsolicited Materials)

(A) Definitions. As used in this section:

1. *Front Door.* The street facing entrances to a principal structure. In the event no door faces the street, then any other door of a principal structure nearest to the street shall be considered a front door for the purposes of this section.
2. *Person.* Any person, firm, corporation, limited liability company, association, club, society, or other organization.
3. *Porch.* An exterior appendage to a principal structure leading to a doorway, including any stairway attached thereto.
4. *Premises.* A lot, plot or parcel of land including any structures, driveways or other impervious surfaces thereon.
5. *Principal Structure.* A structure, or combination of structures of primary importance on the premises, and that contains the primary use associated with the premises. The primary use is characterized by identifying the main activity taking place on the premises.
6. *Unsolicited Written Materials.* Any written materials delivered to any premises without the express invitation or permission, in writing or otherwise, by the owner, occupant, or lessee of such premises.

(B) No person shall deliver, place or distribute unsolicited written materials to any premises other than the following locations and in the following manners:

1. On a porch, if one exists, nearest the front door; or
2. So that such materials are securely attached the front door; or
3. Through a mail slot on the front door or principal structure, if one exists, as permitted by the United States Postal Service Domestic Mail Manual, Section 508 Recipient Services, Subsection 3.1.2; or
4. Between the exterior front door, if one exists and is unlocked, and the interior front door; or
5. Where permitted, in a distribution box located on or adjacent to the premises;  
or

6. Securely attached to a hook or within some other receptacle used for the delivery of non-U.S. Mail packages or materials, attached to the mailbox post for the premises, if it exists; or
  7. Personally to the owner, occupant, and/or lessee of the premises.
- (C) Notwithstanding subsection (B), an owner, lessee or occupant maintains the right to restrict entry to his or her premises. An entry onto private property under this section remains subject to the provisions of section 642.12 (Trespassing) of the Middletown Codified Ordinances regarding enter onto property with the sign bearing the words “No Peddlers, Solicitors or Canvassers Invited,” or words of similar import.
- (D) Organizational Liability. It is the intent of City Council to jointly impose organizational liability under this provision for violation of this section by any officer, agent (including, but not limited to, an independent contractor), or employee of a business or organization while acting on behalf of the business or organization and within the scope of the officer’s, employee’s or agent’s office or employment.
- (E) Timestamped, photographic evidence of unsolicited written materials located upon a premises, other than as permitted pursuant to subsection (B), creates a rebuttable presumption that the materials were placed at the premises by the owner, officer, agent (including but not limited to an independent contractor), or employee of the business, product, good, service, or message which is being advertised, promoted, endorsed, or conveyed in such materials. Where the materials are delivered as a package and related to multiple businesses, products, goods, services or messages the presumption shall apply to the identified distributor of the package of materials, if any. Violations of this section is a strict liability offense and the prosecution of an offense under this section is relieved from proof of any other culpable mental state as defined in section 606.02 of the Middletown Codified Ordinances.
- (F) The provisions of this section do not apply to the United States Postal Services.
- (G) Severability. If any provision, clause, sentences, or paragraph of this section or the application thereof to any person or circumstances shall be held invalid, that invalidation shall not affect the other provisions of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this section are declared to be severable.
- (H) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor on a first offense. Any subsequent offense shall be charged as a third degree misdemeanor if the defendant has previously been convicted individually or under organizational liability. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. This penalty shall be as provided in Section 698.02 of the Middletown Codified Ordinances depending on the defendant’s status as an individual and/or organization.