

ORDINANCE NO. 18-08

CITY OF BEAVERCREEK

**SPONSORED BY COUNCIL MEMBER LITTERAL ON THE 23RD DAY OF
APRI, 2018**

**AN ORDINANCE REPEALING CURRENT SECTION 94.07
“UNSOLICITED PRINTED MATERIALS” OF THE CITY OF
BEAVERCREEK CODE OF ORDINANCES, AND ADOPTING
NEW SECTION 94.07 “UNSOLICITED PRINTED MATERIALS”
OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES.**

WHEREAS, Ordinance Section 94.07 authorizes citizens to request publishers of unsolicited printed material to stop delivery of such material to a private residence; and

WHEREAS, Council intends to remove criminal penalties for violations of Ordinance Section 94.07; and

WHEREAS, Council intends to grant citizens the right to private cause of action against publishers for failing to stop delivery of unsolicited printed materials.

**NOW, THEREFORE, THE CITY OF BEAVERCREEK HEREBY
ORDAINS:**

SECTION I.

Section 94.07, entitled “Unsolicited Printed Materials”, is hereby repealed and new Section 94.07, entitled “Unsolicited Printed Materials”, is hereby enacted as follows with new language in **bold** and text to be deleted in ~~strikeout~~:

§ 94.07 UNSOLICITED PRINTED MATERIALS

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) *PUBLISHER.* The person responsible for the publication or distribution of unsolicited material.
- (2) *UNSOLICITED PRINTED MATERIAL.* Any printed material regardless of content, including, but not limited to, any handbill, dodger, circular, newspaper, paper, booklet, poster, or any other printed material of a like or similar nature, which is placed on the yard, grounds, driveway, walkway, building structure, or doorstep of any private residence, at regularly scheduled

intervals, without the prior consent of the property owner or occupant. This term does not include such materials sent by United States mail.

(B) Request to stop delivery.

(1) Any owner or occupant of a private residence may request a publisher of unsolicited printed material to stop delivering such material to the residence. This request shall be made in writing and shall be sent to such publisher by certified United States mail, return receipt requested.

(2) Upon receipt of a written request provided for in division (B)(1), a publisher shall ~~make a good faith effort to~~ within sixty (60) days of receipt of the request stop delivery of such material to said residence ~~as soon as possible, but, in no event, shall delivery continue 30 days after receipt of the request.~~

~~(3) Upon receipt of a written request provided for in division (B)(1), a publisher shall not deliver such material to said residence for a period of two years. After the expiration of this time period, the publisher may deliver such material to said residence, subject to the provisions of division (B)(2).~~

~~(C) Penalty. Whoever violated any provision of this section is guilty of a minor misdemeanor.~~

(C) *Legal Action.* If the publisher fails to cease delivery of such material upon a reasonable time after receipt of a written request, the owner or occupant of the private residence shall be entitled to pursue private legal action as said owner or occupant deems necessary or appropriate.

SECTION II.

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

SECTION III.

This Ordinance shall take effect at the earliest date allowed by law.

PASSED this 29th day of May, 2018.



Bob Stone, Mayor

ATTEST:

Dianne Miscisin

Dianne Miscisin, Clerk of Council

PREPARED BY: LEGAL DEPARTMENT

SUMMARY

THIS ORDINANCE REPEALS CURRENT SECTION 94.07 "UNSOLICITED PRINTED MATERIALS" OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES, AND ADOPTS NEW SECTION 94.07 "UNSOLICITED PRINTED MATERIALS" OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES.

Certified Mail
Return Receipt Requested

Dear _____,

I am the owner or occupant of the residence at _____, Beavercreek, Ohio 45432. I hereby request you as publisher stop delivering _____ to my property. I make this request per City of Beavercreek, Ohio Codified Ordinance Section 94.07 (Attached). Unsolicited Printed Materials are defined in Section 94.07 as:

Section (B)(2), upon service of this request you are to stop delivery of Unsolicited Printed Materials within sixty (60) days of the date of service of this request. I therefore request no additional Unsolicited Printed Materials be delivered to this residence.

If you have any questions concerning this request you may contact me at _____.

Respectfully,

DRAFT