

ORDINANCE NO. 1978-M-43
AN ORDINANCE AMENDING CHAPTER 25,
ARTICLE VI, "HANDBILLS" OF THE
MUNICIPAL CODE OF ST. CHARLES, ILLINOIS

27d

REFER TO:
MINUTES 11/16/78
PAGE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
ST. CHARLES, KANE AND DU PAGE COUNTIES, ILLINOIS, AS
FOLLOWS:

1. That Chapter 25, Article VI, be and is hereby
deleted and the following substituted therefor:

"ARTICLE VI. HANDBILLS

Sec. 25.601 That to protect the people against the nuisance of and incident to the promiscuous distribution of handbills and circulars, particularly commercial handbills, as herein defined, with the resulting detriment and danger to public health and safety, the public interest, convenience and necessity requires the regulation thereof and to that end the purposes of this ordinance are specifically declared to be as follows:

(a) To protect the people against the unlawful activities or operations of dissolute persons of criminal habits or tendencies, representing themselves as solicitors, canvassers or handbill distributors, by requiring the registration of all such solicitors, canvassers or handbill distributors, together with the names of their employers, and by regulating the business of handbill and advertising distribution through the imposition of reasonable license fees.

(b) To protect local residents against trespassing by solicitors, canvassers or handbill distributors upon the private property of such residents if they have given reasonable notice that they do not wish to be solicited by such persons or do not desire to receive handbills or advertising matter.

(c) To protect the people against the health and safety menace and the expense incident to the littering of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and commercial handbills.

(d) To preserve to the people their constitutional right to receive and disseminate information not restricted under the ordinary rules of decency and good morals and public order, by distinguishing between the nuisance created by the promiscuous distribution of advertising and commercial circulars and the right to deliver non-commercial handbills to all who are willing to receive the same.

Sec. 25.602 *Definitions.* The following words, terms and phrases, when used in this ordinance, have the meanings ascribed

to them in this section, except where the context clearly indicates a different meaning:

(a) "Billposter" shall mean and include any person engaging in the business for hire of posting, fastening, nailing, or otherwise affixing any written, painted or printed matter of any kind, or other form or reproduction thereof, (hereinafter called "Sign"), containing a message or information of any kind whatsoever, to any outdoor billboard, or to or upon any bridge, fence, pole, post, sidewalk, tree, or to or upon the exterior of any other structure except that the terms of this definition (clause (a)) shall not apply to nor include any such sign mounted on, fastened to, or suspended from the outside of any building or other structure, in accordance with and authorized by any provisions of an ordinance or statute, either for any public convenience or use, or regulating the construction or use of so-called outdoor display signs, whether such display signs are illuminated or not.

(b) "Commercial Handbill" shall mean and include any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:

1. Which advertises for sale any merchandise, product, commodity, or thing; or

2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; or

3. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; *Provided*, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this State, or under any ordinance of this City; or

4. Which, while containing reading matter other than advertising matter, is predominantly and essentially an ad-

vertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor; or

5. Which is not covered by the definition of sign, in clause (a).

(c) "Handbill Distributor" shall mean and include any person engaging or engaged in the business for hire or gain of distributing commercial or non-commercial handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such handbills.

(d) "Newspaper" shall mean and include any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

(e) "Non-commercial Handbill" shall mean and include any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not included in the aforesaid definitions of a sign, or a commercial handbill, or a newspaper.

(f) "Person" shall mean and include any person, firm, partnership, association, corporation, company or organization of any kind.

(g) "Private Premises" shall mean and include any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

(h) "Public Place" shall mean and include any and all streets, boulevards, avenues, lanes, alleys, or other public ways, and any and all public parks, squares, spaces, plazas, grounds and buildings.

(i) Words singular in form may include the plural; any words plural in form may include the singular; and words in the masculine gender shall include the feminine and neuter genders.

Sec. 25.603 *Posting Notice, Placard, Bill, etc., Prohibited in Certain Cases.* No person shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, to or upon any sidewalk, crosswalk, curb or curbstone, flagstone, or any other portion or part of any public way or public place, or any lamp post, electric light, telegraph, telephone or trolley line pole, or railway structure, hydrant, shade tree or tree-box, or upon the piers, columns, trusses, girders, railings, gates or other parts of any public bridge or viaduct, or other public structure or building, or upon any pole, box or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or State, and the ordinances of the City.

Sec. 25.604 *Throwing Handbills Broadcast in Public Places Prohibited.* It shall be unlawful for any person to deposit, place, throw, scatter or cast any commercial handbill in or upon any public place within this City; and it shall be also unlawful for any person to hand out or distribute or sell any commercial handbill in any public place; *Provided, however,* that it shall not be unlawful for any person to hand out or distribute, without charge to the receiver thereof, any non-commercial handbill in any public place to any person willing to accept such non-commercial handbill.

Sec. 25.605 *Placing in Vehicles—Commercial and Non-Commercial Handbills.* It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or non-commercial handbill in or upon any automobile or other vehicle. The provisions of this section shall not be deemed to prohibit the handing, transmitting or distributing of any non-commercial handbill to the owner or other occupant of any automobile or other vehicle, who is willing to accept the same.

Sec. 25.606 *Distribution on Uninhabited or Vacant Private Premises of Commercial or Non-Commercial Handbills.* It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or non-commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

Sec. 25.607 *Prohibiting Distribution Where Properly Posted.* It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or non-commercial handbill upon any premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No

Advertisement," or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or to have their right of privacy disturbed, or to have any such handbills left upon such premises.

Sec. 25.608 Distribution on Inhabited Private Premises—Commercial or Non-Commercial Handbills. No person licensed under the provisions of this ordinance, or any other person, shall distribute, deposit, place, throw, scatter or cast any commercial or non-commercial handbill in or upon any private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or any other person then present in or upon such private premises; *Provided, however,* that in case of inhabited private premises which are not posted as provided in this ordinance, the aforesaid licensed or other person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere, except that mailboxes may not be so used when so prohibited by Federal postal laws or regulations.

Sec. 25.609 Name and Address of Printer, etc., and Distributor of Handbills. It shall be unlawful for any person to distribute, deposit, scatter, hand out or circulate any commercial or non-commercial handbill in any place, under any circumstances, which does not have printed on the cover, front or back thereof, the name and address of the following:

(a) The person who printed, wrote, compiled or manufactured the same.

(b) The person who caused the same to be distributed; *Provided, however,* that in the case of a fictitious person or club, in addition to such fictitious name, the true names and addresses of the owners, managers or agents of the person sponsoring said handbill shall also appear thereon.

Sec. 25.610 Distributors—License, Fee.

(a) It shall be unlawful for any person to engage in the business of a billposter for hire or as a handbill distributor for hire, or for any person to distribute commercial or non-commercial handbills, without first complying with the terms of this ordinance and all other relevant laws and regulations; *Provided,* that nothing contained herein shall apply to any person advertising his business or activity upon his own premises, if such business or activity is regularly established at a definite location in such city, and also if a license has been obtained therefor, if such license be required under the terms of any applicable law or ordinance.

(b) Any person desiring to engage, as principal, either in the business of a billposter for hire, or in the business of distributing commercial or non-commercial handbills for hire, shall make application to and receive from the City Clerk, or other officer empowered to issue the same, who shall act whenever the City Clerk is herein referred to, a license in the manner and for the period prescribed by the terms of this ordinance and by all relevant provisions of the municipal code. Such applicant shall make written application to the City Clerk upon a form or forms provided for such purpose by the City Clerk. Such form shall contain, among other things that may be required, the name, the business address, and a brief description of the nature of the business to be conducted by the applicant, the probable number of agents and employees so to be engaged, together with a request for a license for the period for which the applicant seeks to engage in such business.

(c) Without excluding other just grounds for revocation, the City Council, or official so empowered by law, may revoke any license obtained under an application containing a false or fraudulent statement knowingly made by the applicant with intent to obtain a license by means of false or fraudulent representations, or for violation of this ordinance, or any other grounds specified by law. Such application shall be accompanied by the fee hereinafter provided for in this ordinance. No license issued under this ordinance shall be transferrable; and if any such license shall be surrendered by the licensee therein named, or shall be revoked for cause, neither the licensee named in such license, nor any other person, shall be entitled to any refund of any part of such fee.

(d) License fees under the terms of this ordinance, and for any such purpose, shall be as follows:

For a period of one (1) day, the sum of \$.50.

Provided, that persons acting for licensees, as agents or employees, in the posting or distributing of any such signs or handbills, shall not be required to obtain a license or pay a fee, but each such person shall comply with each and all of the other provisions hereof, and be subject thereto.

Sec. 25.611 Exemptions. The provisions of this ordinance shall not be deemed to apply to the distribution of mail by the United States, nor to newspapers as defined in this ordinance.

Sec. 25.612 Owner, etc., Not to Permit Use of Premises for Posting of Objectionable Matter or Material. It shall be unlawful for the owner, lessee, occupant or agent of premises to permit any person, whether licensed or acting under the

terms of this ordinance, or otherwise, to post, affix or otherwise attach to any building, structure or fixture located upon such premises, whether such fixture be natural or artificial, any poster or handbill containing any matter prohibited by the terms of this ordinance.

Sec. 25.613. *Handbills Offensive to Public Morals, etc., Prohibited.* It shall be unlawful for any person to post, to hand out, distribute or transmit any sign, or any commercial or non-commercial handbill:

(1) Which may reasonably tend to incite riot or other public disorder, or which advocates disloyalty to or the overthrow of the Government of the United States or of this State by means of any artifice, scheme, or violence, or which urges any unlawful conduct, or encourages or tends to encourage a breach of the public peace or good order of the community; or

(2) Which is offensive to public morals or decency, or which contains blasphemous, obscene, libelous or scurrilous language.

Sec. 25.614 *Certain Existing Ordinance Not Affected.* This ordinance shall not be deemed to repeal, amend or modify any ordinance ever ordained, either prohibiting, regulating or licensing canvassers, hawkers, peddlers, transient merchants, or any person, using the public streets or places for any private business or enterprise, or for commercial sales, not covered herein.

Sec. 25.615 (Repeal of inconsistent ordinances, preferably by specific designations to ordinances to be repealed and not merely by the usual phrase "all repealed," but also include latter phrase.)

Sec. 25.616 *Severability.* If any provision of this ordinance, or its application to any person or circumstances, shall be held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances, shall not be affected.

Sec. 25.617 (Penalty.) Any person, firm or corporation violating any provision of this article shall be fined not less than ~~five~~ five dollars nor more than five hundred dollars for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

2. That Chapter 25, Article VI, HANDBILLS, as hereinabove amended shall remain in full force and effect.

3. That this ordinance shall take effect and be in force from and after its passage and publication, as provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois, this 6th day of November, 1978.

PASSED by the City Council of the City of St. Charles, Illinois, this 6th day of November, 1978.

APPROVED by the Mayor of the City of St. Charles, Illinois, this 6th day of November, 1978.


MAYOR

ATTEST:


CITY CLERK

Council Vote:

Aye 9

Nay

Pass 1

STATE OF ILLINOIS)
)
COUNTIES OF KANE AND DUPAGE) SS.
)
CITY OF ST. CHARLES)

This is to certify that the above and foregoing is a true and correct copy of Ordinance No. 1978-M-43 entitled An Ordinance Amending Chapter 25, Article VI "Handbills" of the Municipal Code of St. Charles, Illinois

passed by the City Council of the City of St. Charles on the 6th day of November 19⁷⁸ A.D., as morefully appears from the records and files of said City in my custody.

Given under my hand and the official seal of said City of St. Charles, this 6th day of November 19⁷⁸ A.D.

Mary E. Chrencik

Mary E. Chrencik, City Clerk