

Albany Common Council (<http://www.ecode360.com/?custId=AL0934>)

Chapter 217 – Handbills

[HISTORY: Adopted by the Common Council of the City of Albany 8-19-1985. Amendments noted where applicable.]

GENERAL REFERENCES

Solid waste — See Ch. [313](#).

[§ 217-1. Intent and purpose.](#)

[**Added 6-1-1998 by Ord. No. 29.42.98** Editor's Note: This ordinance also provided for the renumbering of former §§ [217-1](#) through 271-6 as §§ [217-2](#) through [217-7](#), respectively. ; **amended 1-22-2009 by Ord. No. 24.41.08**]

A. The Common Council of the City of Albany finds and declares that the illegal posting and distributing of handbills is a nuisance and form of visual pollution which negatively impacts the quality of life in residential and commercial neighborhoods. Particularly offensive is the defacement of public property through the illegal placement of bumper stickers and similar matter and the placement of posters or lawn signs by candidates for public office on vacant or boarded up buildings and on public spaces. It is the intent of this chapter to prohibit the illegal posting of handbills and to regulate distribution in a manner which informs persons distributing handbills of the requirements herein and minimizes street litter.

B. Unwanted telephone books have become a waste problem, as well as a litter and nuisance problem. Residents and businesses complain about unwanted telephone books. The taxpayers bear the burden for cleanup, recycling and disposal of unwanted books. As the number of telephone directory distributors increases, it has become a serious environmental concern. In the interest of improving the quality of life for our residents, of reducing waste removal and recycling costs to local governments, and of reducing the use of natural resources, the Common Council amends this chapter to include telephone directories within its provisions.

[§ 217-2. Definitions.](#)

As used in this chapter, the following terms shall have the meanings indicated:

COMMERCIAL HANDBILL

Any handbill which:

A. Advertises for sale at a commercial establishment any commodity or service;

[Amended 6-1-1998 by Ord. No. 29.42.98]

B. Directs attention to any business, commercial establishment or other activity for the purpose of either directly or indirectly promoting its interest; or

C. 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.

D. A publication that lists and publishes the names, addresses and telephone numbers of telephone customers or the advertisements, products or services of businesses or professional firms by alphabetical category, commonly known as a "local telephone directory."

[Added 1-22-2009 by Ord. No. 24.41.08]

HANDBILL

Any printed or written matter, poster, lawn sign, sample circular, leaflet, pamphlet, paper, booklet, printed matter of literature, bumper sticker, decal or similar matter with a self-adhesive backing intended to affix to a surface.

[Amended 6-1-1998 by Ord. No. 29.42.98]

PERSON

Any natural person, firm, partnership, association, corporation, company, public utility or organization of any kind.

PUBLIC PLACE

Any street, sidewalk, alley, public way, public park, public square, public space, public grounds or public building.

[§ 217-3. Distribution and posting.](#)

A. Public places.

(1) No person shall leave any handbill or local telephone directory upon a public place within the City of Albany. This provision shall not be construed as prohibiting the distribution of handbills to persons willing to accept them.

[Amended 1-22-2009 by Ord. No. 24.41.08]

(2) No person shall affix any handbill to any lamppost, public utility pole, street sign, traffic sign, bus shelter, tree or upon any public structure or public building.

B. Private property.

(1) No person shall leave any handbill or local telephone directory upon any private property which is temporarily or continuously uninhabited or vacant.

[Amended 1-22-2009 by Ord. No. 24.41.08]

(2) No person shall leave any handbill upon private property if requested by the owner or any person in control of the property not to do so or if there is posted on the property in a conspicuous place near the entrance a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertising," or any similar notice indicating that the occupants of the property do not desire to have any handbills left upon the property. Local telephone directories may be left upon properties where there is posted a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertising," or any similar notice indicating that the occupants of the property do not desire to have any handbills left upon the property, subject to the requirements of § [217-3D](#).

[Amended 1-22-2009 by Ord. No. 24.41.08]

(3) Handbills may be distributed to inhabited private property which is not posted as provided in this chapter, provided that the handbills are left in a manner that prevents them from being carried by the elements upon any public place or private property.

(4) Local telephone directories shall be delivered to within 10 feet of the entranceway of any residential or commercial structure, whether it be public or private.

[Added 1-22-2009 by Ord. No. 24.41.08]

C. Motor vehicles. No person shall place any handbills on a motor vehicle.

D. All local telephone directories distributed within the City of Albany shall conspicuously print on the front cover and/or in the Table of Contents a statement that reads, "IF YOU NO LONGER WISH TO RECEIVE THIS DIRECTORY, PLEASE CALL THE FOLLOWING NUMBER OR CONTACT THE COMPANY AT THE FOLLOWING ADDRESS:" along with a toll-free number and mailing address, or electronic mailing address, for the business that residents may use to provide verbal or written notice to the business that the resident no longer wishes to receive the directory. Local telephone directories shall not be distributed to the resident at that address for a period of five years.

[Added 1-22-2009 by Ord. No. 24.41.08]

[§ 217-4. Licenses; fees.](#)

A. License required. Any person engaged in the distribution of commercial handbills or local telephone directories within the City of Albany shall make application to and obtain from the City Clerk a commercial handbill distribution license. The application shall be written on a

form prescribed by the City Clerk. Any person obtaining a commercial handbill distribution license shall be permitted to distribute handbills or local telephone directories pursuant to the provisions of this chapter and the rules and regulations promulgated by the City Clerk.

[Amended 1-22-2009 by Ord. No. 24.41.08]

B. Rules and regulations. The City Clerk may promulgate rules and regulations which are necessary and proper to carry out the purposes of this chapter.

C. Suspension or revocation. A license may be suspended or revoked by the City Clerk only after notice in writing and an opportunity to be heard is given to the licensee. Written notice of intent to suspend or revoke a license shall be given to the licensee by registered or certified mail to the address set forth on the application. The City Clerk shall suspend or revoke the license of any licensee found to have violated or to have permitted a violation of any provision of this chapter or any other ordinance, rule or regulation or state or federal law pertaining to the distribution of commercial handbills.

D. Transferability of license. No license issued under this chapter shall be transferable.

E. Fees.

(1) License fees for a commercial handbill distribution license shall be as follows:

[Amended 11-25-2002 by Ord. No. 42.112.02; 5-19-2008 by Ord. No. 25.42.08]

(a) For a period of more than nine months to one year: \$150.

(b) For a period of more than six months to nine months: \$115.

(c) For a period of more than three months to six months: \$75.

(d) For the period of more than one week to three months: \$50.

(e) For the period of one week or less: \$25.

(2) The yearly license shall be for a one-year period commencing at the time of issuance of the license.

(3) Upon revocation of the license, the license fee shall be forfeited.

F. Any commercial handbill, with the exception of local telephone directories, distributed in accordance with this section shall bear a license number and expiration date issued by the City Clerk.

[Added 6-1-1998 by Ord. No. 29.42.98; amended 1-22-2009 by Ord. No. 24.41.08]

G. Nothing herein shall be interpreted to require a license for the placement of a commercial handbill, which is in the form of a poster or lawn sign, on private property when such placement is with the prior consent of the property owner and advertises the availability of such property for sale or rent or advertises the services of an individual, company or other entity making improvements on such property.

[Added 6-1-1998 by Ord. No. 29.42.98]

[§ 217-5. Penalties for offenses.](#)

[Amended 6-1-1998 by Ord. No. 29.42.98]

A. Any person in violation of any of the provisions of this chapter shall be subject to penalties in accordance with the following schedule:

(1) For a first offense: a fine not to exceed \$650.

[Amended 5-19-2008 by Ord. No. 25.42.08]

(2) For a second offense: a fine not to exceed \$900.

[Amended 5-19-2008 by Ord. No. 25.42.08]

(3) For third and subsequent offenses: a fine not to exceed \$1,000.

B. Any person posting a handbill in violation of this chapter which is in the form of a bumper sticker, decal or similar matter shall be subject to an additional penalty not to exceed the maximum authorized by Subsection [A](#) of this section.

C. Notwithstanding Subsection [A](#) of this section, upon presentation of a handbill posted or distributed in violation of the provisions of this chapter, the City Clerk may issue a warning letter for a first offense informing the person in violation of the requirements of this chapter.

D. The name of a person, organization, establishment or other entity on a handbill shall be considered prima facie evidence of the identity of a person posting or distributing a handbill.

E. A telephone number that appears on any handbill shall be utilized to identify a person responsible for placing a handbill if no other form of identification is readily available on such handbill; provided, however, that if the telephone number that appears on any handbill belongs to a telephone answering service, such telephone answering service shall be held liable for handbills posted or distributed in violation of this chapter.

[§ 217-6. Severability.](#)

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a

separate, distinct and independent provision, and such holdings shall not affect the validity of the remaining portions hereof.

[§ 217-7. Effective date.](#)

[Amended 1-22-2009 by Ord. No. 24.41.08]

Section [217-3B\(4\)](#) shall take effect February 1, 2009. Section [217-3D](#) shall take effect October 1, 2009, and shall cease to have force and effect after December 31, 2011. All other such amendments shall take effect immediately upon passage.