AN ORDINANCE

of the City Council of the City of Berkley, Michigan

to Add New Article III, Unsolicited Written Materials, to Chapter 6, Advertising,
of the City of Berkley Code of Ordinances to Regulate the Leaving or Placement of
Unsolicited Written Materials on Private Property.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Article II Handbills of the Berkley City Code is repealed in its entirety.

SECTION 2: New Article III is added to Chapter 6 of the Berkley City Code, as follows:

ARTICLE III. – UNSOLICITED WRITTEN MATERIALS

Sec. 6-60. – Purpose and intent.

The purpose and intent of this Article is to reduce visual blight, litter, and the scattering
and migration to public streets or other public or private property of unsolicited written materials
by establishing reasonable, predictable locations for the placement of such materials on the
private property to which they are delivered. Placement of such materials in consistent, secure
and predictable locations will reduce the negative visual impact of such materials, reduce the
likelihood that such materials will be rendered unreadable or unusable, reduce the blowing or
washing of such materials onto streets, drains, or adjoining property, reduce the likelihood that
such materials will become a nuisance or blight on public and private property and public streets,
and make it more likely and convenient for the intended recipients to find and collect such
materials.

Sec. 6-61. – Definitions.

For purposes of this article, the following definitions shall apply unless the context clearly
indicates or requires a different meaning.

Front door. The street-facing entrance(s) to a principal building or structure. In the event
no door faces the street, then a door of a principal building or structure nearest the street shall be
considered a front door for purposes of this article.

Person. An individual, partnership, corporation, limited liability company, association, or
other legal entity, including the partners, shareholders, proprietors, officers, or members of a
company, firm, partnership, limited liability company, association and a corporation.

Porch. An exterior appendage to a principal building leading to a doorway, also known as
a stoop, veranda, doorstep, or entrance platform.

Premises. A lot, plot, condominium unit, or parcel of private property including any
buildings, structures, driveways, walkways, or yards.

Principal building or structure. The main building or structure where the primary use of
the premises is conducted.
Unsolicited written materials. Any written materials delivered to any premises without the express request, invitation or permission, in writing or otherwise, including, but not limited to, papers, advertisements, magazines, pamphlets, flyers, handbills, leaflets, and circulars of the owner, occupant, or lessee of such premises.

Sec. 6-62. – Placement of unsolicited written materials.

Unsolicited written materials delivered to premises shall be left or placed only:

(1) On a porch, if one exists, nearest the front door, in a manner to prevent it from being blown, washed, or drifted about the premises; or

(2) So that such materials are securely attached to the front door; or

(3) Through a door slot on the front door of the principal building or structure as permitted by the United States Postal Service; 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, tube, or container located on or adjacent to the premises; or

(6) Adjacent to postal box near the front door; or

(7) Personally with the owner, occupant, and/or lessee of the premises.

Sec. 6-63. – Preservation of rights.

Notwithstanding Sec. 6-62 above, an owner, tenant, or occupant maintains the right to restrict entry onto the premises.

Sec. 6-64. – Rebuttable presumption.

Unsolicited written materials left or placed at premises creates a rebuttable presumption that the materials were left or placed at the premises by the owner, publisher, agent, manager, and/or authorized distributor of the unsolicited written materials.

Sec. 6-65. – Violations and limitations.

(a) Any person who leaves or places, or who causes to be left or placed, unsolicited written materials in areas on or adjacent to premises other than as set forth in Sec. 6-62 of this article shall be responsible for a municipal civil infraction punishable by a civil fine of $100.00 for each violation. A separate violation of this article occurs each time that unsolicited written materials are left or placed on, at, or about a separate premises in violation of this article. For example, three (3) violations of this article will occur if a person leaves or places unsolicited written materials in violation of this article at three (3) different premises.

(b) A person shall be responsible for a violation of this article if the person directed or engaged the person’s officer, agent, employee, or contractor to leave or place the unsolicited written materials. That a person acted as an officer, agent, employee, or contractor of another in
leaving or placing unsolicited written materials in violation of this article shall not negate or relieve the person acting as an officer, agent, or employee for his or her own violation of this article.

(3) This article shall not be deemed to be violated merely because unsolicited written materials that were left or placed on, at, or about a premises in violation of this article have remained on, at, or about a premises. Only the initial leaving or placement of the unsolicited written materials in violation of this article shall constitute a violation of this article.

(4) The provisions of this article do not apply to the United States Postal Service.

Sec. 6-66. – Other remedies.

Nothing contained in this article shall be construed to limit the City’s other remedies at law or in equity to regulate or enjoin the leaving or placement unsolicited written materials that have been left or placed in violation of this article.

SECTION 3: Severability Clause

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 4: Effective Date

This Ordinance shall become effective 30 days following the date of adoption.

SECTION 5: Publication

The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on Monday, February 3, 2020.

________________________________
Daniel J. Terbrack
Mayor

Attest:

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Victoria Mitchell
City Clerk