

**COMMONWEALTH OF KENTUCKY
DAVIESS COUNTY FISCAL COURT**

**KOC 870.01 (2024)
10-2024**

**AN ORDINANCE CREATING CHAPTER 94 OF THE CODE OF ORDINANCES OF
THE DAVIESS COUNTY FISCAL COURT, REGARDING THE PLACEMENT OF
UNSOLICITED WRITTEN MATERIALS ON PROPERTY**

WHEREAS, the Daviess County Fiscal Court ("Fiscal Court") is concerned about the proliferation of litter and visual blight within the community; and

WHEREAS, the Fiscal Court finds that deliveries of unsolicited written materials are being haphazardly made throughout Daviess County, to include distributing such materials on sidewalks, yards, and driveways, with no means to ensure that such items do not add to the litter problem and/or visual blight; and

WHEREAS, the Fiscal Court finds that these unsolicited written materials have contributed to the litter and visual blight of private premises, public streets, sidewalks, and other public places, and that these materials, haphazardly delivered, are damaging to private property and/or interfere with private property; and

WHEREAS, the Fiscal Court desires to ensure that these unsolicited written materials do not litter the streets, sidewalks, or other public places, or yards or driveways of private premises; do not cause visual blight in our neighborhoods; do not damage private property; and do not interfere with private property; and

WHEREAS, this Ordinance is an effort to reduce unwanted litter and visual blight caused by unsolicited written materials on public property and the yards and driveways of private premises; to prevent damage to private property; and to further prevent interference with private property; and

WHEREAS, this Ordinance does not in any way deprive or diminish a private property owner's right to protect his or her premises from unsolicited or unwanted written materials.

**NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE
COUNTY OF DAVIESS, COMMONWEALTH OF KENTUCKY:**

SECTION ONE. That Chapter 94 of the Code of Ordinances be and hereby is created to read as follows:

Chapter 94 - Unsolicited Written Materials

Section 94.101 Definitions

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

Citation Officer. A person authorized by state law or local ordinance to issue a citation for a violation of this ordinance. The code enforcement official of the Property Maintenance Code, KOC 1-2016, is authorized to issue citations.

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

Porch. An exterior appendage to a principal structure leading to a doorway, including any stairway attached thereto.

Premises. A lot, plot, or parcel of land including any structures, driveways, or other impervious surfaces thereon.

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.

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.

Section 94.102 Placement of Unsolicited Written Materials

Unsolicited written materials delivered to a premises shall be placed:

- (1) On a porch, if one exists, nearest the front door; or
- (2) So that such materials are securely attached to 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) Personally with the owner, occupant, and/or lessee of the premises.

Notwithstanding above, an owner, lessee, or occupant maintains the right to restrict entry to his or her premises.

Section 94.103 Presumption

Unsolicited written materials placed at a premises create a rebuttable presumption that the materials were placed at the premises by the owner, agent, manager, and/or authorized distributor of the business, product, good, service, message, or idea, which is being advertised, promoted, endorsed, or conveyed in such materials.

Section 94.104 United States Postal Service - Exempt

The provisions of this ordinance do not apply to the United States Postal Service.

Section 94.105 Civil Offense

Any placement of unsolicited written materials in areas on or adjacent to a premises other than as set forth in Section 94.102 of this ordinance shall be a violation of this ordinance, classified as a

civil offense, and may be enforced by issuance of a civil citation by a citation officer, consistent with Sections 2, 8 and 9 of the Daviess County Fiscal Court Property Maintenance Code, or as it may be amended.

Section 94.106 Civil Penalty

The civil penalty for each violation of this ordinance shall be a maximum of two hundred dollars (\$200) per violation, but not less than twenty-five dollars (\$25).

Section 94.107 Board of Appeals

The Board of Appeals established in Section 10 of the Daviess County Property Maintenance Code shall be the entity having authority to determine whether there has been a violation of this ordinance if an aggrieved party files an appeal.

Section 94.108 Harmony with Property Maintenance Code

This ordinance is to be interpreted as being in harmony with the Daviess County Fiscal Court Property Maintenance Code, KOC 1-2016.

Section 94.109 Severability

If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidation shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION TWO. This Ordinance shall become effective sixty (60) days from passage.

Introduced and publicly read on first reading on this the ____ day of _____, 2024.

Publicly read and approved on second reading on this the ____ day of _____, 2024.

DAVIESS COUNTY FISCAL COURT

BY: _____

Charlie Castlen
Daviess County Judge/Executive

ATTEST:

Brooke Hagan, Fiscal Court Clerk

PREPARED BY:

John Burlew
Daviness County Attorney