

CITY OF BELLEVUE
ORDINANCE NO. 2019-11-03

AN ORDINANCE OF THE CITY OF BELLEVUE IN CAMPBELL COUNTY, KENTUCKY, REQUIRING THAT THE DELIVERY OF UNSOLICITED WRITTEN MATERIALS TO A PREMISES BE PLACED ON THE FRONT PORCH, THROUGH A MAIL SLOT, SECURELY ATTACHED TO THE FRONT DOOR, IN A DISTRIBUTION BOX, OR PERSONALLY WITH THE OWNER; CLASSIFYING A VIOLATION OF THIS ORDINANCE AS A CIVIL OFFENSE; DESIGNATING THE CODE ENFORCEMENT BOARD HAVING AUTHORITY TO DETERMINE WHETHER A VIOLATION HAS OCCURRED AND TO FIX PENALTIES; ALL EFFECTIVE SIXTY (60) DAYS FROM PASSAGE.

WHEREAS, the City of Bellevue, Kentucky (“City”) is concerned about the proliferation of litter and visual blight within the community; and

WHEREAS, the City finds that deliveries of unsolicited written materials are being haphazardly made throughout the City, including by distributing such materials on sidewalks, streets, stairways, lawns and driveways, sometimes with multiple materials accumulating, with no means to ensure that such items do not add to the litter problem and/or visual blight; and

WHEREAS, the City finds that these unsolicited written materials have contributed to the litter, visual blight and safety concerns of private premises, public streets, sidewalks, and other public places, and that these materials, haphazardly delivered, are damaging to private property, present a trip/slip hazard and/or interfere with private property; and

WHEREAS, the City 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 cause a slip/trip hazard; 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; to protect the health and well-being of our residents and all persons visiting our City, 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 CITY OF BELLEVUE, IN CAMPBELL COUNTY, AS FOLLOWS:

Section 1 – That Section 52.13 of the Code of Ordinances be and hereby is created to read as follows:

Section 1.01 – Unsolicited Written 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) **Code Enforcement Officer.** A person authorized by Ordinance to issue a citation for a violation of this Ordinance.
 - 2) **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.
 - 3) **Porch.** An exterior appendage to a principal structure leading to a doorway, including any stairway attached thereto.
 - 4) **Premises.** A lot, plot, or parcel of land including any structures, driveways, or other impervious surfaces thereon.
 - 5) **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.

- 6) *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.
- (b) ***Placement of Unsolicited Written Materials.*** Unsolicited written materials delivered to 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) Where permitted, in a distribution box located on or adjacent to the premises; or
 - 5) Personally with the owner, occupant, and/or lessee of the premises.
- (c) Notwithstanding subsection (b) above, an owner, lessee, or occupant maintains the right to restrict entry to his or her premises.
- (d) 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.
- (e) The provisions of this Ordinance do not apply to the United States Postal Service.
- (f) Any placement of unsolicited written materials in areas on or adjacent to a premises other than as set forth in subsection (b) 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 Code Enforcement officer.
- (g) *Civil Penalty.* The civil penalty for each violation of this Ordinance shall be an amount or amounts as set forth and provided for in Ordinance 35.101 *et. seq.*
- (h) *Code Enforcement Board.* The administrative hearing board established in Section 35.90 of the Code of Ordinances shall be the code enforcement board having authority to determine whether there has been a violation

of this Ordinance. Administrative review of citations shall adhere to those procedures set forth in the Code of Ordinances through the use of assigned hearing officer(s).

- (i) *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 1.02 Conflicting Ordinances Repealed.

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 1.03 Effective Date.

This Ordinance shall be effective when read, passed, advertised in accordance with Kentucky law, and when sixty (60 days) has passed from the date of publication.

Section 1.04 Publication.

This Ordinance shall be published in accordance with Kentucky Law.

Charlie Cleves, Mayor

ATTEST:

Mary H. Scott, City Clerk

1st reading: _____

2nd reading: _____

Publication: _____