

Mossotti, Chair
Scutchfield, Vice Chair
Kay
Stinnett
Akers
Gibbs
Lamb
Farmer
Bledsoe
Henson

A G E N D A

Planning & Public Safety Committee

August 11, 2015

1:00 P.M.

1. **June 9, 2015 Committee Summary** (1-3)
2. **Food Truck Fire Safety** - Henson (4-7)
3. **Armstrong Mill Small Area Plan** – F Brown (8-18)
4. **Distribution of Unsolicited Advertising Supplements** –
Henson (19-26)
5. **Items Referred** (27)

"Planning and public safety committee, to which shall be referred matters relating to the division of planning and including, but not limited to, matters relating to housing, infill and redevelopment, purchase of development rights and historic preservation, and any related partner agencies and to which shall be referred matters relating to the department of public safety and its related divisions."

- Council Rules & Procedures, Section 2.102 (1) Effective January 1, 2015. adopted by Urban County Council September 25, 2014

2015 Meeting Schedule

January 13	February 10
April 14	May 12
June 9	August 11
September 8	October 13
November 10	



Planning & Public Safety Committee

June 9, 2015

Summary and Motions

Chair Mossotti called the meeting to order at 1:14 p.m. All Committee Members, Akers, Bledsoe, Farmer, Gibbs, Henson, Kay, Lamb, Scutchfield, Mossotti and Stinnett were in attendance.

I. May 12, 2015 Committee Summary

A motion was made by Farmer to Approve the May 12, 2015 Planning and Public Safety Committee Summary and Motions, seconded by Akers. The motion passed without dissent.

II. Greenway Plan & Manual

Derek Paulson, Commissioner of Planning, Preservation & Development, gave a presentation of the Greenway Plan & Manual.

Bledsoe inquired about some of the older items on the list of greenways that are maintained by the city, and if they would be grandfathered into any changes or have implications for prior agreements. Paulson replied that for many of the sites there are no timing issues or money to maintain them, so they have not accepted them yet. Bledsoe further inquired what the cost would be. Paulson stated the 43 spaces are in varying stages and each case will need to be determined and ranked in terms of further maintenance, which will factor into which greenways are accepted. Bledsoe stated she wants to see prior projects and agreements respected in their ranking system.

Akers inquired why greenways would have been accepted initially knowing that the maintenance costs are high. Paulson replied they have different goals for each type of greenway and noted there are both environmental stewardship and quality-of-life goals in addition to the potential for community benefit in these areas.

Akers inquired about their timeline. Paulson stated they have to acquire stakeholder input for the Greenway Manual prior to moving forward. Paulson stated next they will undergo a ranking process. Paulson informed this would be a gradual process.

Scutchfield stated many of these sites are in her area and inquired if this includes properties the city does not own but currently maintains. Paulson stated the 43 properties do not include those. Scutchfield stated she would like to request signage to help educate neighborhoods about height of grass, etc. Scutchfield inquired if this list is being looked at by the Parks

Comprehensive Plan, to which Paulson stated he does not believe they are. Scutchfield stated she feels they should be included.

Henson inquired if the City is still taking on agreements to maintain greenways. Paulson stated if the Urban Service Area is expanded there may be opportunities to add more greenways. Henson inquired about property owners that have been maintaining greenways and if they will continue. Paulson stated this will have to be addressed as they go through the Greenway Manual discussions.

Lamb inquired if Man O' War is shown on the map. Paulson stated they can provide another map for her district.

Mossotti expressed concern about large greenways spaces that are currently in limbo and the liability involved. Mossotti noted the cost to homeowners. Paulson stated their goal is to speed up this process as soon as they can. Stated these factors will go into their decisions.

III. Design Excellence Proposal

Vice Mayor Kay introduced the Design Excellence update. There were several speakers who gave public comment and Bledsoe yielded her time for a speaker.

Scutchfield stated she does not feel there had been sufficient time to discuss areas of concern, stating she feels this adds too many regulations on downtown residents and they are forgetting about their outside districts.

Lamb stated she has further questions, also.

Mossotti inquired for the Council's pleasure on this issue.

Kay stated this has been before the previous Council for a year and a half and the current Council for a year, in addition to being in Committee three times. Kay stated a delay would mean 3 or 4 months before it could be picked up again. Kay stated his desire for Council to move the ZOTA forward to the docket.

Mossotti noted the motion is only for the ZOTA. Kay stated that the ZOTA is the governing document which refers to the Design Excellence standards and guidelines and would incorporate all of the changes in the full Design Excellence proposal.

Akers noted Council could hold further discussion during Work Session if the issue is moved to full Council.

Lamb inquired about the expected launch date on the Accella program. Paulson stated they have just renegotiated the scope of work and they hope to have it up and running by next spring. Lamb stated she is supportive of Design Excellence but does feel incentives are a very

important function that needs to be in place before going forward. Lamb stated they could not implement the policies without incentives in place. Lamb further inquired about the items under regulatory incentives and their pending litigation, inquiring if Council can speak on these issues or if they will need to be in a closed session.

A motion was made by Farmer to call the question, seconded by Gibbs. The motion failed by a 3-6 vote. (Aye: Farmer, Gibbs, Kay Nay: Akers, Bledsoe, Lamb, Mossotti, Scutchfield, Stinnett)

Stinnett inquired if the motion includes the text amendment and if the text amendment also creates the board for Design Excellence to which Kay replied that it replaces the existing Courthouse Review Overlay Board with the new Design Excellence Board. Stinnett inquired about the incentives and when the process will be in place to make it easier to go through the development process. Kay stated the Commissioner stated it was ready to go. Stinnett asked Kay to clarify what exactly this is, noting he has not seen it vetted. Paulson clarified that what they had discussed was the Infill Facilitator, noting that this was not speeding up the process, but rather facilitating it. Stinnett asked for further clarification. Chris King gave some examples. Stinnett inquired if there was a list of what issues would be handled by Planning staff, and stated it is outlined in the ordinance. Stinnett stated it would be helpful for the public to have this clearly outlined.

Janet Graham, from Law, spoke to Lamb's prior question and stated she was not familiar with the document and was not comfortable responding to the questions. Lamb reiterated that incentives are important and she does not want to "put the cart before the horse". Kay stated it is important to start the process, noting that incentive pieces can be added as they move forward.

A motion was made by Kay to send to full Council the Design Excellence ZOTA, seconded by Farmer. The motion passed by a 6 – 2 vote. (Yay: Akers, Gibbs, Henson, Kay, Lamb, Mossotti Nay: Bledsoe, Stinnett)

IV. Food Truck Fire Safety

In the interest of time it was decided to postpone this topic until the next meeting of the Committee.

V. Items Referred

A motion was made by Bledsoe to adjourn, seconded by Akers. The motion passed without dissent.

The meeting was adjourned at 2:18 p.m.

DS 6-17-2015

Food Truck Fire Safety

Planning & Public Safety

9 June 2015

Public Safety
Division of Fire

Introduction

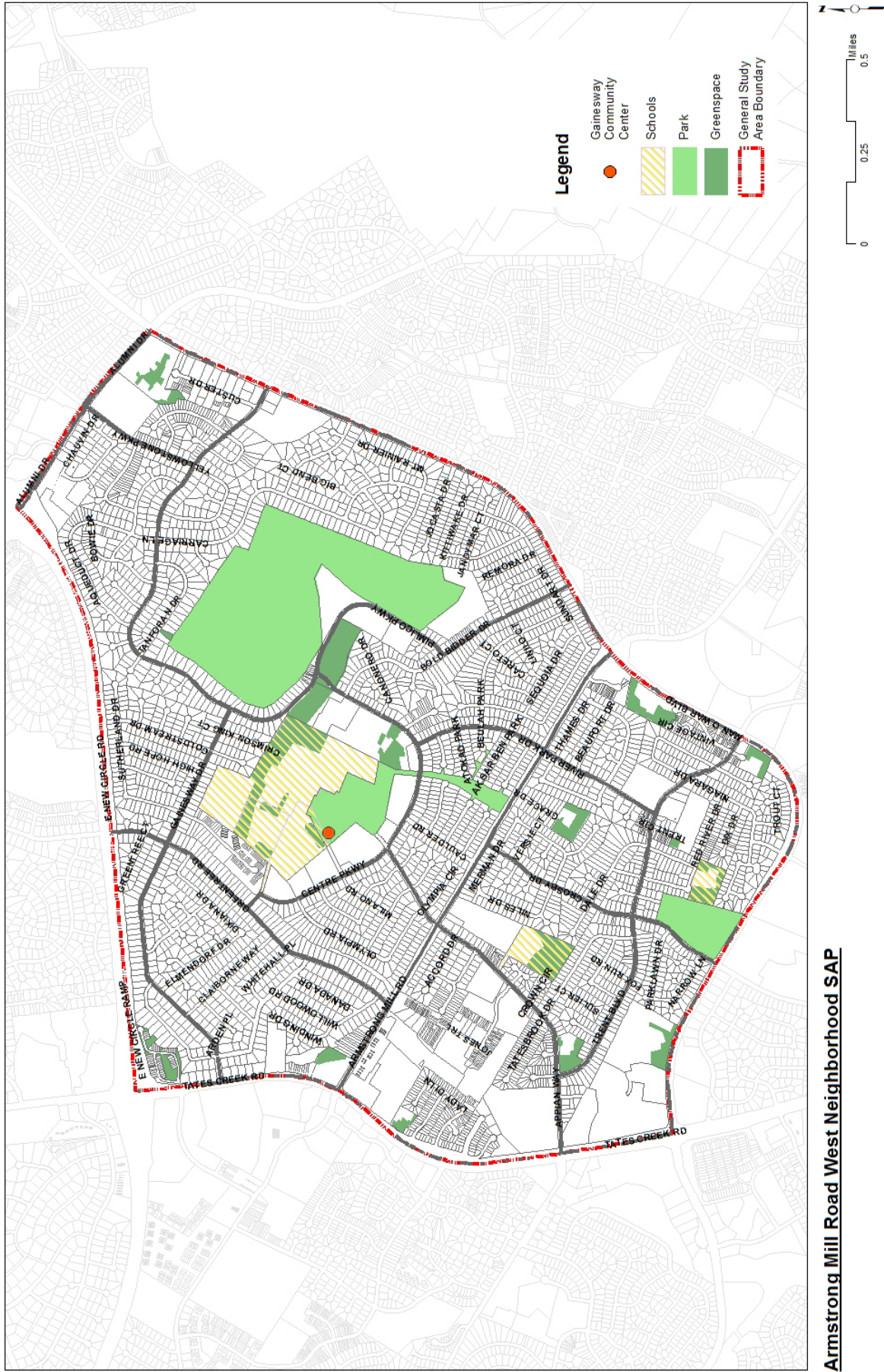
- Disaster in Philadelphia July 2014
- Who inspects these food trucks now?
- Where will the next explosion occur?
 - 2015
 - Minnesota
 - 2014
 - Philadelphia
 - Denver
 - Louisiana
 - Memphis
 - 2013
 - Fresno
 - 2012
 - Canadian National Exhibition
 - 2011
 - New York City
- Ensure Lexington is not next
- Occurring with greater regularity



Authority (Statute)

- KRS 219.051
 - Enforcement of fire and safety regulations.
 - The state fire marshal or his duly authorized agents or representatives shall administer and enforce all state fire regulations, laws, standards of safety, and regulations adopted by the commissioner of housing, buildings and construction relating to hotels and food service establishments
 - Defined in KRS 217.015 (21)
 - Penalties under KRS 219.991

Questions?



Armstrong Mill West Small Area Plan

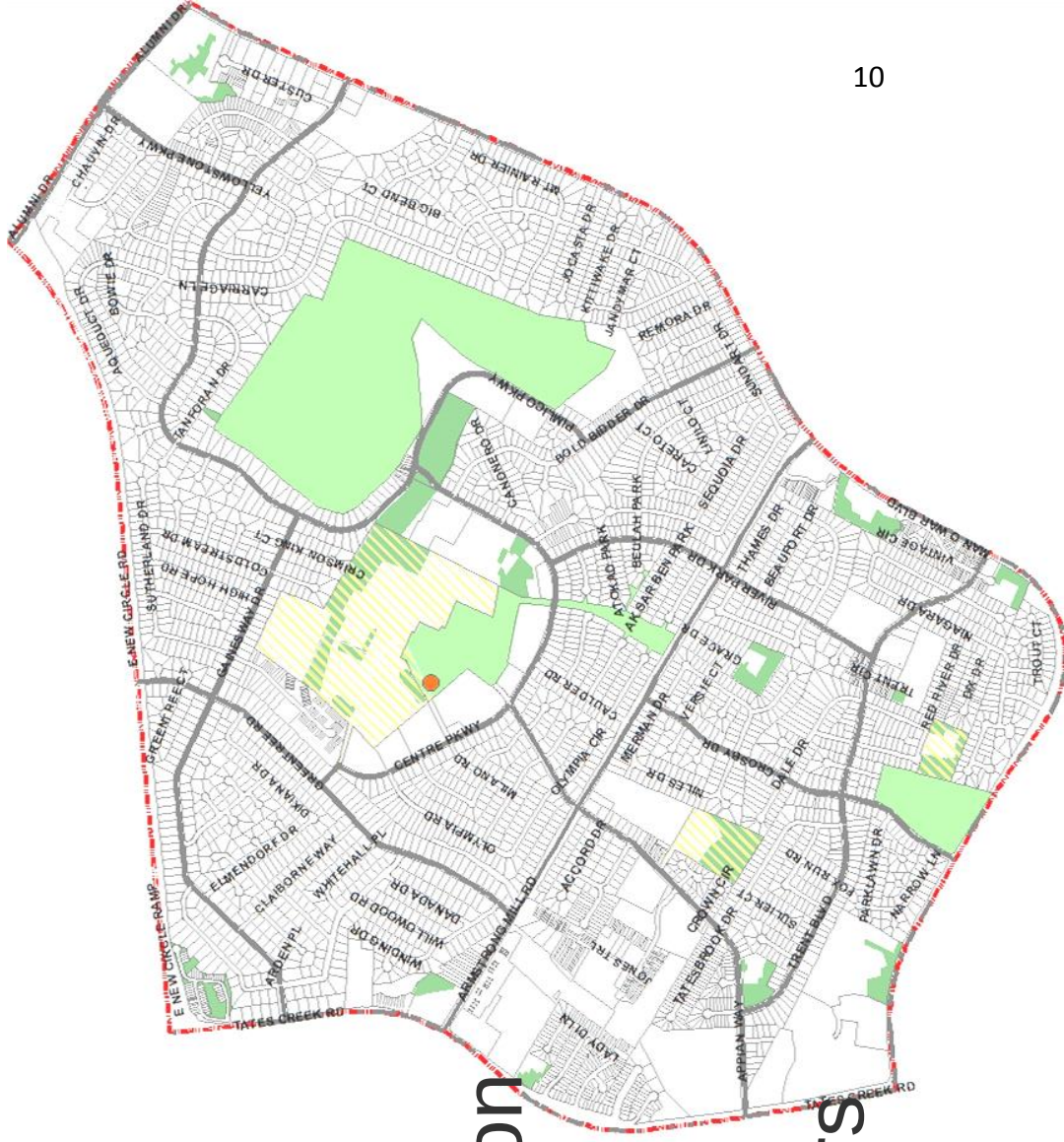
Council Planning and Public
Safety Committee

August 11, 2015

Department of Planning, Preservation & Development
Division of Planning

Study Area Characteristics

- 1,911 acres
- 16,290 people;
31.5 median age
- \$37,809 income;
\$48,398 Lexington
- 37.7% <\$25K;
27.2% Lexington
- 58.6% are renters



Small Area Plan Process

- Planning Commission included SAPs in 2013 Comprehensive Plan
- Council allocated General and UDAG funds for consultant
- Engaged EHI Consultants to lead planning process
- Council also allocated funds for Cardinal Valley SAP, which was completed concurrently

Area Assets

- Public Schools
- Public Spaces
- Variety of Housing Types
- LexTran
- Active Neighborhood Associations



Community Engagement

- Public input meetings
- Neighborhood surveys
- Focus Groups
- Steering Committee

Neighborhood Concerns

- Infrastructure
 - Sidewalks; lighting
 - Bikes; roads
- Crime and Drugs
- Property Maintenance (rental)

Vision

- Safe and Progressive Neighborhood
- Attractive for Businesses and Families
- Safe for Multi-Modal Travel
- Activities for Kids and Teens
- Encourage Homeownership

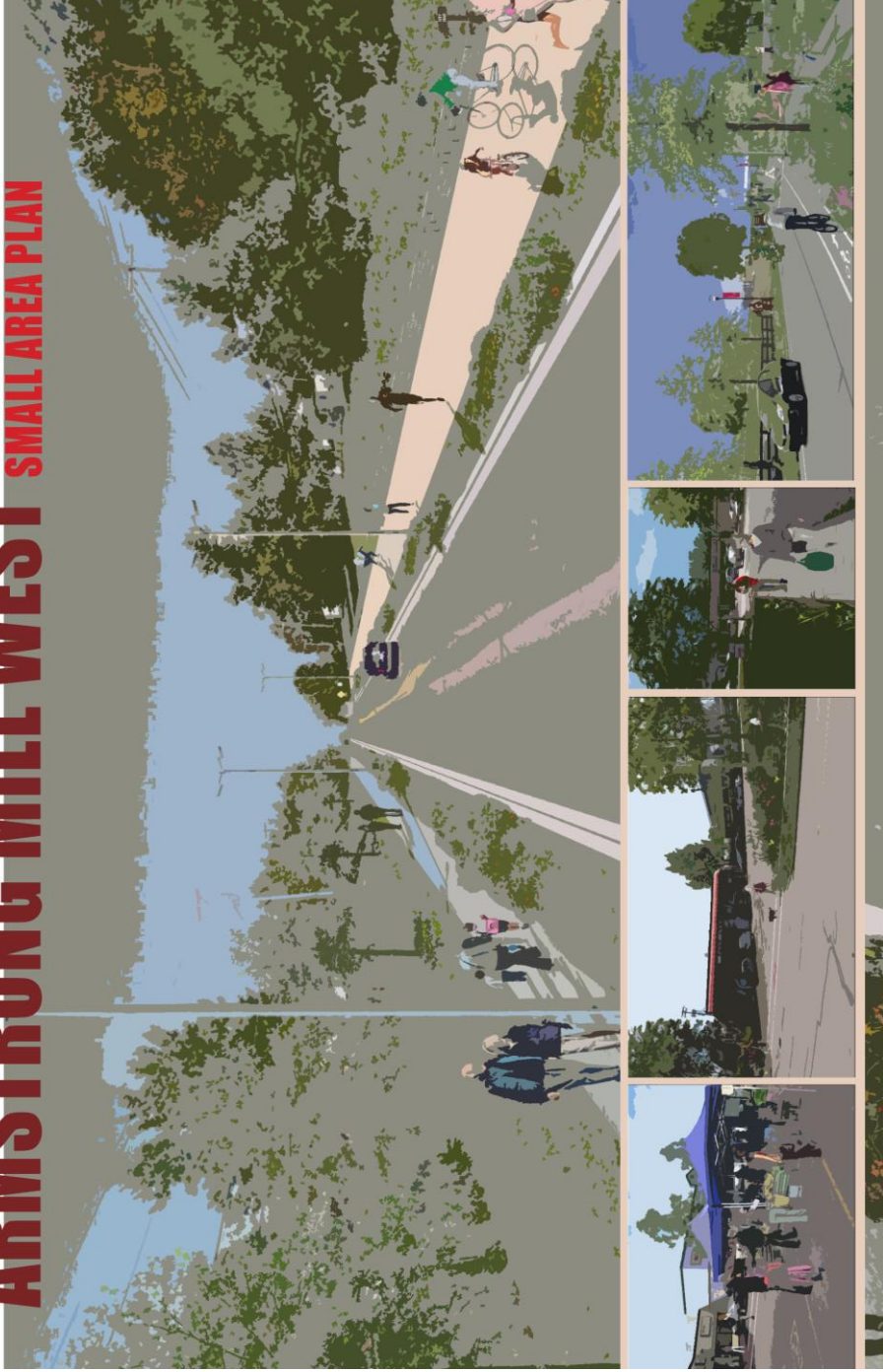
Goals and Recommendations

- Public Safety
- Connectivity and Mobility
- Housing
- Land Use and Sustainability
- Neighborhood Livability
- Placemaking



Questions?

ARMSTRONG MILL WEST SMALL AREA PLAN



Chris King • Jim Duncan • Janice Westlund



- ▶ Armstrong Mill identified as an area for further study in the 2013 Comprehensive Plan
 - Large number of households with no vehicle
 - High-density households
 - Moderately high poverty
 - Lack of easy access to fresh food
- ▶ Council-funded project: \$104,775 (\$65,000 General Fund as Planning Professional Services; \$39,775 as Council-reallocated UDAG funds)
- ▶ EHI Consultants (Ed Holmes) led nine-month study; included extensive public participation
- ▶ AMW SAP adopted by the Planning Commission as an amendment to the 2013 Comprehensive Plan on April 30, 2015
- ▶ Highlights of AMW SAP Recommendations:
 - Re-design Armstrong Mill Road to include new bicycle and pedestrian infrastructure, lighting, and streetscape
 - Construct West Hickman Trail
 - Connect neighborhood amenities with trails, greenways, and bikeways
 - Re-institute Gainesway Empowerment Center
 - Encourage mobile and fixed farmers' markets
 - Install way-finding signage and neighborhood banners
 - Ensure pedestrian safety by improving crosswalks, especially at school zones
 - Increase rate of homeownership; create affordable housing options
 - Schedule Code Enforcement inspections
 - Develop and sustain neighborhood leaders

The full AMW SAP can be viewed at the Division of Planning Website (Long-Range Planning)

ORDINANCE NO. _____ - 2015

AN ORDINANCE CREATING SECTION 14-106 OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, 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, BETWEEN THE EXTERIOR AND INTERIOR FRONT DOOR, IN A DISTRIBUTION BOX, OR PERSONALLY WITH THE OWNER; CLASSIFYING A VIOLATION OF THIS ORDINANCE AS A CIVIL OFFENSE; ESTABLISHING ADMINISTRATIVE REVIEW PROCEDURES TO CONTEST CITATIONS; FIXING CIVIL PENALTIES FOR VIOLATIONS IN THE FOLLOWING AMOUNTS: FIFTY DOLLARS (\$50.00) PER VIOLATION, IF UNCONTESTED; TWO HUNDRED DOLLARS (\$200.00) PER VIOLATION, IF CONTESTED; DESIGNATING THE ENVIRONMENTAL HEARING BOARD AS THE CODE ENFORCEMENT BOARD HAVING AUTHORITY TO DETERMINE WHETHER A VIOLATION HAS OCCURRED; AMENDING SUBSECTION 14-10(f)(4) TO DESIGNATE CITATION OFFICERS; AND AMENDING SECTION 16-76 OF THE CODE OF ORDINANCES TO AUTHORIZE THE ENVIRONMENTAL HEARING BOARD TO HEAR MATTERS RELATING TO ENFORCEMENT OF THIS ORDINANCE; ALL EFFECTIVE SIXTY (60) DAYS FROM PASSAGE.

WHEREAS, the Lexington-Fayette Urban County Council ("Urban County Council") is concerned about the proliferation of litter and visual blight within the community; and

WHEREAS, the Urban County Council finds that deliveries of unsolicited written materials are being haphazardly made throughout Fayette County, including by 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 Urban County Council 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 Urban County Council 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 COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 14-106 of the Code of Ordinances be and hereby is created to read as follows:

Section 14 - 106. – 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) *Citation Officer.* A person authorized by state law or local 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) 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.
- (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 citation officer, consistent with Chapter 2B of the Code, or as it may be amended.
- (g) *Civil Penalty.* The civil penalty for each violation of this ordinance shall be fifty dollars (\$50.00) per violation if the citation is not contested and two hundred dollars (\$200) per violation if the citation is contested.
- (h) *Code Enforcement Board.* The Environmental Hearing Board 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 Chapter 2B of the Code.
- (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 2 – That subsection 14-10(f)(4) of the Code of Ordinances be and hereby is amended to read as follows:

(f) *Issuance of Citations.* The mayor may designate certain officers, agents, and employees, holding the positions listed below, to issue citations with respect to the ordinances set out for their respective positions.

TABLE INSET:

Subsection	Position Title	Ordinances To Be Enforced
(4)	Code enforcement officer, nuisance control officer, code enforcement supervisor, and director of code enforcement employed in the division of code enforcement.	Code of Ordinances sections 12-1 through 12-8, 14-105, <u>14-106</u> , article IV of chapter 17, and subsections 17-4(g) and (j) of the zoning ordinance (per Ordinance No. 349-2005).

Section 3 – That Section 16-76 of the Code of Ordinance be and hereby is amended to read as follows:

Two (2) hearing boards are hereby created pursuant to KRS 65.8801 through 65.8839, one (1) to be known and referred to as the infrastructure hearing board and one (1) to be known and referred to as the environmental hearing board. The infrastructure hearing board shall hear matters regarding enforcement of ordinances by the divisions of engineering, water quality, planning, traffic engineering, and streets, roads and forestry, as specified in applicable code sections, and those portions of the zoning ordinance and subdivision regulations subject to enforcement through civil citations. The environmental hearing board shall hear matters regarding enforcement of ordinances by the division of solid waste and shall also hear matters relating to the enforcement of Section 14-105 of the code which classifies littering as a civil offense **and Section 14-106 of the code which relates to the placement of unsolicited written materials**. The boards shall operate under and be subject to the provisions of chapter 2B of the code.

Section 4 – That this Ordinance shall become effective sixty (60) days from passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

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Lexington-Fayette Urban County Council

TO: Peggy Henson, Councilmember
11th District

FROM: Paul Schoninger
Research Analyst

DATE: August 4, 2015

SUBJECT: Distribution of Unsolicited Advertising Materials

This is in response to your recent request for information pertaining to the issue of the distribution of unsolicited advertising materials. As I understand it, the advertising circulars are thrown onto the front lawns or driveways of residents who don't receive the local newspaper. Generally the circulars are distributed on Wednesday.

As you are aware Louisville Metro adopted an ordinance that required that the circulars be placed on a porch, inside the screen door, on the doorknob or delivered personally to the resident. The ordinance was adopted to avoid the litter issues related to "fly and fling" method of distributing sales advertisements.

Other local governments have also regulated the distribution of these advertising circulars. Philadelphia adopted an ordinance that lets residents request a city prepared "circular non delivery" decal for their door. The ordinance authorizes penalties to the distributors if the decal is ignored. The Philadelphia ordinance also requires that the circulars be removed from private property within 72 hours of distribution.

Bridgeton, NJ adopted an ordinance that requires distributors to respect notices placed by homeowners barring circulars. New York City has adopted similar language.

Ridgefield Park, NJ took a slightly different approach. It adopted an ordinance which bars the distribution of circulars to residents which haven't opted in to receiving the circulars.

Other local governments have ordinances which regulate or restrict the unsolicited distribution of the circulars including St. Louis, MO; Suffolk Co, NY; Old West Westbury, NY; Derby, CT; Patterson, NJ; and Black Earth, WI.

Numerous other local governments like Lexington are examining or have examined this issue for possible action. These include La Mesa, CA; Norman, OK; Baltimore, MD; Evanston, IL; Rockville Centre, NY; Mobile, AL; and Cincinnati, OH.

Several of these local ordinances, including in Louisville, have faced legal challenges, primarily but not exclusively on 1st amendment freedom of speech and expression grounds. In Louisville the Court upheld the Ordinance because in part it only regulated how the expression was to occur rather than a complete ban on speech or differing treatment of types of expression.

If, after reviewing this memo and attached materials, you have any questions, comments or need clarification, please don't hesitate to contact me.

Paul Schoninger
Research Analyst

c: Hilary Angelucci

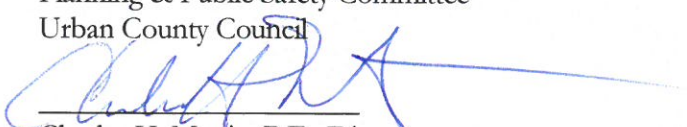


Lexington-Fayette Urban County Government
DEPARTMENT OF ENVIRONMENTAL QUALITY & PUBLIC WORKS

Jim Gray
Mayor

David L. Holmes
Commissioner

TO: Planning & Public Safety Committee
Urban County Council

FROM: 
Charles H. Martin, P.E., Director
Division of Water Quality

DATE: July 21, 2015

SUBJECT: Distribution of Unsolicited Advertising

The Division of Water Quality acknowledges that while the distribution of unsolicited advertising in the form of circulars and flyers left on residential property is a public safety concern, it is also of concern to our division and the potential impact these materials have on water quality.

Unwanted materials tossed on driveways and lawns amount to litter. During heavy rain, these circulars and flyers can wash into the public storm sewer system and end up deposited on the banks of our creeks and streams or hung up in streamside vegetation, which is not only unsightly but pollutes our waterways.

The EPA Consent Decree, along with our state stormwater discharge permit, requires us to educate the public about ways to minimize pollution to our waterways. Keeping litter from reaching our storm sewers and waterways is a critical, and rather obvious, step in the right direction. Allowing businesses to essentially create an additional litter load for our citizens by distributing unsolicited materials for them to pick up is counterproductive to our messaging.

While circulars and flyers are important for businesses, there are far more meaningful and effective ways to reach customers than by dropping materials on lawns and driveways. Thank you for the opportunity to voice our support for limiting, if not prohibiting, the distribution of unsolicited advertising in such a manner.



LEXINGTON DIVISION OF POLICE OFFICE OF THE CHIEF

July 15, 2015

LFUCG Council
Planning & Public Safety Committee

Dear Committee Members,

Lexington Police Department personnel seek to assist citizens in reducing opportunities that may target them for criminal activity. Formally, this initiative has been titled Crime Prevention Through Environmental Design (CPTED), or in other locales Secured by Design (SbD). Our effort toward this awareness occurs daily with various citizen contacts.

Unsolicited circulars/flyers can leave a neighborhood appearing neglected. Circulars left to clutter around a residence tend to indicate that there is no surveillance of the property or that a home may be abandoned. These conditions do correlate to an increased likelihood of residential burglary and other related crimes.

If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Barnard".

Mark Barnard
Chief of Police

MB/rmh

Planning & Public Safety Committee Referrals

<u>Items</u>	<u>Referred By</u>	<u>Date Referred</u>	<u>Status</u>
H-1 Notification Process	Farmer	1.19.13	November 2014
Greenway Manual & Plan	Mossotti	10.8.13	June 2015
Explore Providing Assistance to Low Income Homeowners with Code Compliance	Akers	12.5.13	May/Nov. 2014
Design Excellence Ordinance	Kay	4.22.14	April/June 2015
Downtown Traffic Study	Farmer	4.13.12	May 2015
Taxi Cab Ordinance	Henson	2.11.14	Dec. 2014, Jan. 2015
Merge Division of Emergency Management (DEM) into Fire & Em. Management Services	Public Safety Link	6.19.14	Winter-Spring 2015
Ridesharing Regulations	Henson	6.22.14	Feb 2015
Scrap Metal Dealers UCG Code 13.54-3	Farmer	6.23.14	Spring 2015
Sky Lanterns	Farmer	6.24.14	Spring 2015
Status of Small Area Plans	Stinnett	2.3.15	May 2015
Versailles Rd Corridor Study	Henson	3.10.15	April 2015
Food Truck Safety	Henson	4.21.15	June 2015
Distribution of Unsolicited Advertising Supplements	Henson	4.21.15	
Armstrong Mill Small Area Plan	F.Brown	5.12.14	
Fireworks' Display Insurance	Bledsoe	7.2.14	