

# Lexington passes ordinance that newspaper vows to fight

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The Lexington Urban County Council on Thursday approved an ordinance that would require businesses to put unsolicited fliers and circulars on doorsteps or mail slots or face fines.

The 9-5 vote came despite a warning from the Herald-Leader that it would sue the merged government if the ordinance was passed.

Rufus Friday, president and publisher of the Herald-Leader, said after Thursday's vote that he will "aggressively defend the Lexington Herald-Leader's First Amendment rights, which does include any infringement on the press's distribution rights."

The council has been debating for nearly two years what to do with unsolicited fliers.

Under the proposal, businesses and individuals would be required to deliver unsolicited material to the front door, porch or through a mail slot. Violators could face a \$200 fine per violation.

The original debate was prompted by the delivery of a free weekly product from the Herald-Leader called Community News. Some residents complained to council members that copies were creating a hazard and blight because the newspapers were found on sidewalks and streets.

Officials with the Herald-Leader have said they have worked with their third-party carrier to stop delivery of Community News for those who re-

quest it. The supplement includes advertising and news stories.

John Bussian, a lawyer who represents the Herald-Leader, told the council committee in January that several courts have struck down similar ordinances in other cities and counties. Bussian said those courts have held that the First Amendment outweighs public safety concerns. In the past three months, there has been only one complaint about Community News.

Bussian said he represented another newspaper owned by McClatchy, which also owns the Herald-Leader, that sued over the right to distribute its newspaper in a city- and county-owned airport. The airport had to pay the newspaper's legal fees, which were \$500,000, he said.

The city's lawyers have said the city believes the ordinance does not single out newspapers and therefore does not run afoul of the First Amendment.

Council members who support the ordinance have said they feel the circulars are a public safety concern and create litter.

Several council members spoke against the

ordinance before voting Thursday.

Councilman Bill Farmer Jr. said he felt that the ordinance infringed on the newspaper's free speech rights, and that the city was also telling a business how to operate. The news business has been under attack in general, he said.

The newspaper is both "venerable and vulnerable at this time," he said.

Councilwoman Angela Evans said she was voting against the ordinance as well because it "does not address the problem." The problem is not with the delivery, but with making sure materials are picked up, she said, calling it an enforcement issue.

Those voting in favor of the ordinance were Jake Gibbs, Sasha Love Higgins, Amanda Bledsoe, Kathy Plomin, Vice Mayor Steve Kay, Fred Brown, Jennifer Scutchfield, Richard Moloney and Peggy Henson. Those who voted against, in addition to Farmer and Evans, were Jennifer Mossotti, Susan Lamb and Kevin Stinnett.

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