

CHAPTER 87

(HB 195)

AN ACT relating to the publication of local government legal advertisements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS 424.110 TO 424.370 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Local government" means:*

1. *Any urban-county government;*
2. *Any consolidated local government;*
3. *Any charter county;*
4. *Any unified local government; and*
5. *In any county containing a population of eighty thousand (80,000) or more based upon the most recent federal decennial census, the county itself or any:*
 - a. *City within the county;*
 - b. *Any special district within the county;*
 - c. *Any school district within the county; or*
 - d. *Any special purpose governmental entity within the county; and*

(b) *"Notice Web site" means an Internet Web site that is maintained by a local government or a third party under contract with the local government, which contains links to the legal advertisements or notices electronically published by the local government.*

(2) *Local governments may satisfy the requirements of this chapter or any other provision of law requiring the publication of an advertisement in a newspaper by following the alternative procedures established in this section.*

(3) *In lieu of newspaper publication, a local government may post the required advertisement online on a notice Web site operated by the local government that is accessible to the public at all times in accordance with subsections (4) to (9) of this section. Publication of an advertisement shall be deemed to have occurred on the date the advertisement is posted on the local government's notice Web site.*

(4) *In conjunction with an alternative Internet posting, the local government shall publish a newspaper advertisement one (1) time providing notice that the public may view the full advertisement on the notice Web site. The newspaper advertisement shall:*

- (a) *Be not more than six (6) column inches and meet the technical requirements of KRS 424.160(1);*
- (b) *Be published within ten (10) days of the alternative posting on the notice Web site when the purpose of the posting is to inform the public of a completed act, including those acts specified in KRS 424.130(1)(a), or within three (3) days of the posting when the purpose of the posting is to inform the public of the right to take a certain action, including the events specified in KRS 424.130(1)(b) and (d);*
- (c) *Inform the public of the subject matter of the alternative posting, inform the public of its right to inspect any documents associated with the Internet posting by contacting the local government, and provide a mailing and a physical address where a copy of the document may be obtained and the Web address if the document is available online; and*
- (d) *Provide the full Uniform Resource Locator (URL) of the notice Web site address and the full Uniform Resource Locator (URL) of the address where the full advertisement may be directly viewed along with a telephone number for the local government.*

(5) *In addition to specific legal requirements applicable to a particular type of advertisement:*

- (a) *The contents of each alternative Internet posting shall meet the minimum requirements of KRS 424.140; and*
- (b) *The local government shall make the alternative Internet posting in accordance with the times and periods established by KRS 424.130, and shall actively maintain the alternative Internet posting on its public Web site:*
 - 1. *Until the deadline passes or the event occurs if the substance of the advertisement is intended to advise the public of a time to take action or the occurrence of a future event;*
 - 2. *For at least ninety (90) days if the substance of the advertisement is to inform the public of an action taken by the local government, such as the enactment of an ordinance; or*
 - 3. *For one (1) year or until updated or replaced with a more recent version if the substance of the advertisement is intended to inform the public about the financial status of the local government, such as annual audits or the budget.*
- (6) *The local government shall display access to any and all alternative Internet postings made pursuant to this section prominently on the homepage or first page of the notice Web site. The section of the notice Web site containing any postings and the actual advertisement shall be made in a manner where the public can readily and with minimal effort identify the location of and easily retrieve the advertisements.*
- (7) *The local government shall provide a conspicuous statement on its notice Web site that individuals who have difficulty in accessing the contents of posted advertisements may contact the local government for information regarding alternative methods of accessing advertisements, which shall include the telephone number of the local government.*
- (8) *As proof of an alternative Internet posting to satisfy any newspaper publication requirement, the local government shall memorialize the posting by capturing the posting in electronic or paper format and shall complete an affidavit signed by the person responsible for causing publications under KRS 424.150, stating that the local government satisfied the publication requirement by alternative Internet posting. The affidavit shall specify the active dates of the notice Web site posting, the specific statutory requirements being satisfied by the alternative Internet posting, and the notice Web site address where the alternative posting was located, including the full Uniform Resource Locator (URL) used for the posting. The local government shall retain the captured posting and the affidavit by the person responsible for publication for a period of three (3) years. Together, the captured posting and the affidavit shall constitute prima facie evidence that the posting was made and occurred as stated within the affidavit.*
- (9) *The failure to cause the newspaper advertisement required in subsection (4) of this section shall not void the action of the local government or negate the enforceability of the matter advertised by alternative Internet posting. Any person who violates the requirements of subsection (4) of this section shall be subject to the penalties provided in Section 3 of this Act.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 424 IS CREATED TO READ AS FOLLOWS:

- (1) *If a newspaper qualified under KRS 424.120 either makes an error or fails in time or substance to make a publication in accordance with KRS 424.130 or 424.140 after receiving the information to be published, a city or county affected thereby may, after it has notice of the error or failure and to avoid undue delay of governmental process and procedure, remedy the error or failure by causing the publication to occur on a notice Web site as defined in Section 1 of this Act.*
- (2) *Notwithstanding the time requirements imposed by KRS 424.130, a city or county publishing to remedy an error or failure of a newspaper under subsection (1) of this section shall immediately cause the publication of the matter on a notice Web site, and this remedial Web site publication shall be deemed in full compliance with the requirements of this chapter.*

➔Section 3. KRS 424.990 is amended to read as follows:

Any person who violates any provision of KRS 424.110 to 424.370 shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). In addition, any officer who fails to comply with any of the provisions of KRS 424.220, 424.230, 424.240, 424.250, 424.290, ~~or~~ 424.330, **or subsection (4) of Section 1 of this Act** shall, for each such failure, be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), in the discretion of the court, which may be recovered only once, in a civil action brought by any citizen of the **local government** ~~city, county or district~~ for which the officer serves. The costs of all proceedings, including a reasonable fee for the attorney of the citizen bringing the action, shall be assessed against the unsuccessful party.

➔Section 4. KRS 67.077 is amended to read as follows:

- (1) No county ordinance shall be passed until it has been read on two (2) separate days, but ordinances may be read by title and a summary only. A proposed ordinance may be amended by the fiscal court after its first reading and prior to its adoption. All amendments shall be proposed in writing, and only by setting out in full each amended section.
- (2) ~~[No county ordinance shall be passed until it has been published pursuant to KRS Chapter 424. Prior to passage, ordinances may be published by summary. Publication shall include the time, date, and place at which the county ordinance will be considered, and a place within the county where a copy of the full text of the proposed ordinance is available for public inspection. Publication of amendments to a proposed ordinance shall be required, pursuant to KRS Chapter 424, prior to its adoption, and amendments shall be filed with the full text of the proposed ordinance that is available for public inspection. If consideration for passage is continued from the initial meeting to a subsequent date, no further publication shall be necessary if at each meeting the time, date, and place of the next meeting are announced.]~~
- ~~(3)]~~ All county ordinances and amendments shall be published *pursuant to KRS Chapter 424* after passage and may be published in full or in summary form at the discretion of the fiscal court. If applicable, a sketch, drawing, or map, together with a narrative description written in layman's terms, may be used in lieu of metes and bounds descriptions. If published in summary form, publication shall contain notice of a place in the county where the full text of the ordinance or amendment is available for public inspection.
- ~~(3)](4)~~ Traffic, building, housing, plumbing, electrical, safety, and other self-contained codes may be adopted by reference if a copy of the code is kept with the adopting ordinance and is made a part of the permanent records of the county.
- ~~(4)](5)~~ The provisions of this section shall not be applicable in counties that have pursuant to KRS 67.830 adopted a charter county form of government or pursuant to KRS Chapter 67A adopted an urban-county form of government or pursuant to KRS Chapter 67C adopted a consolidated local government.

➔Section 5. KRS 83A.060 is amended to read as follows:

- (1) Each ordinance shall embrace only one (1) subject and shall have a title that shall clearly state the subject.
- (2) Each ordinance shall be introduced in writing and shall have an enacting clause styled "Be it ordained by the City of _____:".
- (3) No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any text being added by a single solid line drawn underneath it. Text that is intended to be removed shall be marked at the beginning with an opening bracket and at the end with a closing bracket. The text between the brackets shall be stricken through with a single solid line.
- (4) Except as provided in subsection (7) of this section, no ordinance shall be enacted until it has been read on two (2) separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.
- (5) A city legislative body may adopt the provisions of any local, statewide, or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance that identifies the subject matter by title, source, and date and incorporates the adopted provisions by reference without setting them out in full, if a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.
- (6) Unless otherwise provided by statute, a majority of a legislative body shall constitute a quorum and a vote of a majority of a quorum shall be sufficient to take action.
- (7) In an emergency, upon the affirmative vote of two-thirds (2/3) of the membership, a city legislative body may suspend the requirements of second reading and publication to provide for an ordinance to become effective by naming and describing the emergency in the ordinance. Publication requirements of subsection (9) of this section shall be complied with within ten (10) days of the enactment of the emergency ordinance.
- (8) Every action of the city legislative body shall be made a part of the permanent records of the city and on passage of an ordinance the vote of each member of the city legislative body shall be entered on the official record of the meeting. The legislative body shall provide by ordinance for the maintenance and safekeeping of the permanent records of the city. The person assigned this responsibility and the presiding officer shall sign the official record of each meeting. All ordinances adopted in a city shall, at the end of each month, be indexed and maintained in the following manner:

- (a) The city budget, appropriations of money, and tax levies shall be maintained and indexed so that each fiscal year is kept separate from other years.
 - (b) All other city ordinances shall be kept in the minute book or an ordinance book in the order adopted and indexed in a composite index or maintained in a code of ordinances.
- (9) Except in cities of the first class, a charter county government, and as provided in subsection (7) of this section, no ordinance shall be *enforceable*~~effective~~ until published pursuant to KRS Chapter 424. Ordinances may be published in full or in summary as designated by the legislative body. If the legislative body elects to publish an ordinance in summary, the summary shall be prepared or certified by an attorney licensed to practice law in the Commonwealth of Kentucky and shall include the following:
- (a) The title of the ordinance;
 - (b) A brief narrative setting forth the main points of the ordinance in a way reasonably calculated to inform the public in a clear and understandable manner of the meaning of the ordinance; and
 - (c) The full text of each section that imposes taxes or fees.
- Ordinances that include descriptions of real property may include a sketch, drawing, or map, including common landmarks, such as streets or roads in lieu of metes and bounds descriptions.
- (10) A city may specify by ordinance additional requirements for adoption of ordinances in greater detail than contained herein, but a city shall not lessen or reduce the substantial requirements of this section or any other statute relating to adoption of ordinances.
 - (11) At least once every five (5) years, each city shall cause all ordinances in the composite index or code of ordinances to be examined for consistency with state law and with one another and to be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions.
 - (12) The legislative body may adopt municipal orders. Orders shall be in writing and may be adopted only at an official meeting. Orders may be amended by a subsequent municipal order or ordinance. All orders adopted shall be maintained in an official order book.
 - (13) In lieu of an ordinance, a municipal order may be used for matters relating to the internal operation and functions of the municipality and to appoint or remove or approve appointment or removal of members of boards, commissions, and other agencies over which the city has control.
 - (14) All ordinances, and orders of the city may be proved by the signature of the city clerk; and when the ordinances are placed in a printed composite index or code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of the ordinances.
 - (15) For anything said in debate, legislative body members shall be entitled to the same immunities and protections allowed to members of the General Assembly.

Vetoed March 27, 2020. Veto overridden and became law April 14, 2020.