

COMMONWEALTH OF KENTUCKY
CALLOWAY COUNTY
ORDINANCE NO. 17-0221-A

AN ORDINANCE relating to ensuring transparency and accountability of public agencies using tax proceeds collected in Calloway County for marketing or advertising purposes.

Be it ordained by the fiscal court of county of Calloway, Commonwealth of Kentucky:

WHEREAS, the Fiscal Court of Calloway County has the authority pursuant to the provisions of KRS Chapter 67.083 to enact an ordinance regulating the performance of certain public functions; and,

WHEREAS, the Fiscal Court of Calloway County is dedicated to the belief that it is necessary for public agencies receiving tax monies to be transparent and accountable to the citizens of Calloway County in their stewardship of such taxes;

NOW, THEREFORE, be it ordained by the Fiscal Court of Calloway County, Kentucky that:

SECTION I: DEFINITIONS

As used in this ordinance, unless context otherwise indicates, the following definitions shall be in effect:

“Advertising” means the action of drawing the public’s attention to the public agency in order to promote it, its function(s), its facilities, or its program(s). Advertising shall not include the publication of notifications or other announcements specifically required under the Kentucky Revised Statutes.

“Advertising Materials” means any materials purchased by a public agency in furtherance of its advertising efforts. Such materials include, but are not limited to, newspaper advertisements, radio advertisements, television advertisements, internet advertisements, catalog advertisements, catalogs, booklets, brochures, audio tapes, CD’s, and t-shirts.

"Public Agency" means any body primarily operating within the boundaries of Calloway County, Kentucky which, within any fiscal year, derives at least twenty-five percent (25%) of its funds expended by it from local authority funds or tax receipts collected within Calloway County, Kentucky. However, any funds derived from a local authority in compensation for goods or services that are provided by contract through a public competitive procurement process shall not be included in the determination of whether a body is a public agency under this ordinance. Public school districts and divisions of the city governments of Murray and Hazel shall not be considered public agencies for purposes of this ordinance.

"Tax statement" means the statement required by this ordinance to be made a part of advertising or advertising materials.

"Transparency and Accountability Ordinance" means this ordinance enacted by the Calloway County Fiscal Court.

SECTION 2: POLICY STATEMENT

In order to provide transparency and accountability to the citizens of this county, all Public Agencies within Calloway County, Kentucky shall clearly indicate in all advertising and on all advertising materials that same have been paid for with taxes collected on behalf of the agency.

SECTION 3: TAX STATEMENT REQUIRED

Any Public Agency, as defined hereinabove, which purchases advertising or advertising materials shall cause a tax statement to be made a part of or affixed to said advertising or advertising materials in the following manner:

1. The tax statement shall read "This advertisement paid for with taxes collected on behalf of the [agency name]."
2. If the advertising or advertising materials are in written form, the tax statement shall be included in a size not smaller than the smallest font otherwise used therein, and shall also be in a form that is conspicuous and readily legible as a part thereof.
3. If the advertising or advertising materials are in audio form, the tax statement shall be included immediately following the conclusion of the other audio advertisement language, and shall be clearly stated in a volume not less than the average volume used throughout the advertisement.

SECTION 4: ENFORCEMENT OF ORDINANCE

Any Public Agency violating or failing to comply with the provisions of this ordinance shall be held accountable by the office of the Calloway County Judge-Executive, or his fiscal court-approved designee, and shall be subject to fines and costs associated with such violation as follows:

1. For the first violation within a five (5) year period, the public agency shall receive a written notice of violation and warning against committing future violations. This notice shall state the nature of the violation and the potential penalties for future violations and reference the Transparency and Accountability Ordinance and the ordinance number associated herewith. In addition, in the discretion of the Calloway County Judge-Executive, the notice may or may not require specific corrective action be taken by the public agency. The goal of requested corrective action shall be to provide full transparency regarding the advertising or advertising materials to the citizens of Calloway County.
2. For a second or subsequent violation within a five (5) year period, or in the event that the public agency fails to fully perform the requested corrective action for its first violation in a timely manner, the Calloway County Judge-Executive shall take such action as he deems reasonably necessary to notify the citizens of Calloway County of the violation(s) of this ordinance, with the public agency being liable for the costs associated with same. Such actions may include, but are not limited to, publication via the local newspaper, one or more local radio broadcasts, local television, or direct mailing to citizens. In no event shall the aggregate cost of such publications or corrective actions for any single violation exceed the sum of ten thousand dollar \$10,000.00. Once the cost associated with the publications or corrective actions has been determined, the Calloway County Judge-Executive shall send an invoice for same to the public agency, and same shall be immediately due and payable to the general fund of the Calloway County Fiscal Court.
3. In the event that the public agency fails to pay an invoice sent pursuant to this ordinance within sixty (60) days from the date thereof, the Calloway County Judge-Executive is authorized to direct the Calloway County Sheriff and/or the Clerk of Calloway County to withhold such amount from tax monies collected on behalf of the public agency and distribute said amount directly to the general fund of the Calloway County Fiscal Court instead.
4. Additionally, any board member of any public agency giving authorization for the agency to commit a second or subsequent violation of this ordinance, or who fails to authorize requested corrective action or the payment of an invoice sent pursuant hereto shall be deemed thereby to have acted inefficiently, neglected his/her duty, or committed malfeasance such as may be required under the Kentucky Revised Statutes for removal from his/her position, if that board member was appointed pursuant to the authority of the Calloway County Judge-Executive or the Calloway County Fiscal Court.
5. Any party or agency aggrieved by an action taken by the Calloway County Judge-Executive pursuant to this ordinance shall be entitled to appeal such action to the Calloway County Fiscal Court upon proper notice of a request for same.

SECTION 5: VALIDITY AND EFFECT:

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance which shall continue in full force and effect, and, to this end, the provisions of this ordinance are hereby declared to be severable. This ordinance shall take effect and be in full

force and effect as of _____, 2017. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

The Clerk of the Court is directed to publish this ordinance in a local newspaper one time, to obtain proof of publication thereof and to file said proof in the minutes of this Court.

Passed on the first reading _____ day of _____ 2017.

Larry Elkins
Calloway County Judge Executive

Eddie Hale
Magistrate District 1

Tim Todd
Magistrate District 2

Don Cherry
Magistrate District 3

Johnny Gingles
Magistrate District 4

Second Reading _____ Publication Date _____