

ORDINANCE NO. _____, SERIES 2021

AN ORDINANCE CREATING A NEW CHAPTER OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF ORDINANCES (“LMCO”) DESIGNATING HISTORICALLY BLACK NEIGHBORHOODS AS PROTECTED COMMUNITIES FROM DIRECT, INDIRECT AND CULTURAL DISPLACEMENT.

SPONSORED BY: COUNCIL MEMBER _____

WHEREAS, the National Trust for Historic Preservation has noted that, “the first half of the 20th century shaped Black Americans’ identity and influence on the United States. In reaction to racist actions and laws in that period, Black neighborhoods provided a sense of belonging, serving as a space not only to garner wealth, but also to celebrate Black culture in a unique and authentic way. During this time, a Black cultural identity began to emerge, but Black Americans were still significantly affected by key events such as Jim Crow, segregation and desegregation, and the assassinations of key Civil Rights leaders. These events impacted individual livelihoods and the fate of these neighborhoods. Many of these communities disintegrated because of factors such as gentrification and outright racism, while others continue to rebuild and evolve. However, the history of these neighborhoods have often been hidden and not fully recognized”; and

WHEREAS, Louisville/Jefferson County Metro Government commissioned the Louisville Housing Needs Assessment which was prepared in February, 2019 and studied the health, equity and diversity of housing stock across Louisville Metro (the “Housing Needs Assessment”); and

WHEREAS, the Housing Needs Assessment found that, “As home values increase in older, lower-income neighborhoods located near Louisville’s vibrant urban center, there is a growing challenge to help guard against the displacement of current residents and businesses and to help create and preserve affordable housing in these areas.”; and

WHEREAS, the Housing Needs Assessment further found that “[t]he risk [of displacement] is highest in neighborhoods like Russell, where a multi-million dollar redevelopment of Beecher Terrace will evolve over the next several years, and in neighborhoods like Smoketown, where renovations of older homes are becoming more frequent and profitable. There is also a high likelihood of gentrification from investment in newly designated federal Opportunity Zones, which cover much of the market areas in West Louisville.”; and

WHEREAS, the Housing Needs Assessment further found that, as evidenced by “Louisville Gentrification Maps and Data” at <http://www.governing.com/gov-data/louisville-gentrification-maps-demographic-data.htm>, “Gentrification has transformed several neighborhoods in Louisville since 1990. In the past few decades, areas like Butchertown, Phoenix Hill, Smoketown, Jackson, Shelby Park, Germantown, Schnitzelburg, Park Duvalle, Clifton Heights and Limerick have experienced increases in home values and the number of residents with bachelor’s degrees, both indicators of gentrification. Many of these neighborhoods are close to Louisville’s downtown.”; and

WHEREAS, the Housing Needs Assessment concluded that, “Investors are

finding increasing value in older, lower-income neighborhoods located near a vibrant urban center. The local government's challenges are to help guard against the displacement of current residents and businesses and to help create and preserve affordable housing in these areas.”; and

WHEREAS, the Housing Needs Assessment also found that, “Residents of West Louisville, especially those near downtown, are most at risk of displacement. In Airport, West Core, and Northwest Core and in neighborhoods like Newburg and Taylor Berry, financial insecurity makes residents particularly vulnerable to changes in the housing market. In the Downtown, University, and Northeast Core market areas, actively volatile housing market conditions are primarily responsible for displacement risk.”; and

WHEREAS, the Housing Needs Assessment emphasized that, “The urgency to prioritize the implementation of anti-displacement initiatives in these areas cannot be overstated. Stakeholders reported that homeowners in the Russell and Smoketown neighborhoods have already been approached by entities interested in purchasing their homes. These actions indicate that the preliminary activities undertaken by Louisville Metro Housing Authority in anticipation of the Beecher Terrace project have mobilized the private market to begin acquiring properties while prices are still reasonable and speculation has not yet become entrenched in the area. Both renters and homeowners in Russell, Smoketown, and surrounding areas will require immediate assistance through public policy and programs if they are to remain in their homes and benefit from the increased outside investment in their neighborhoods.”; and

WHEREAS, Plan 2040: A Comprehensive Plan for Louisville Metro (“Plan 2040”)

in Housing Goal 1, Land Use and Development Subsection 2, states: “As neighborhoods evolve, discourage displacement of existing residents from their community.”; and

WHEREAS, Plan 2040 in Community Form 1, Land Use and Development Subsection 6, “Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor and stormwater.”; and

WHEREAS, the Housing Needs Assessment recommended several anti-displacement measures government entities could take, which were derived from best practices across the United States, including how government-owned resources and incentives might be utilized in connection with development projects in vulnerable neighborhoods; and

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the “Council”) desires to implement an assessment program to ensure that Metro incentives, letters of support, certain Metro Officer activities, funding and land are not utilized as part of a development that may create further displacement in historically black neighborhoods in Louisville Metro.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: A new Chapter of LMCO is created to read as follows:

§XX.01 DEFINITIONS.

For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AFFORDABLE HOUSING. Housing for which the occupant is paying no more than 30 percent of gross income for housing costs, including utilities.

CERTAIN METRO OFFICER ACTIVITIES. Discretionary activities performed by Metro Officers to assist a proposed development in a Historically Black Neighborhood, when such activities are not performed in connection with a public process that allows for community input from the affected Historically Black Neighborhood. Notwithstanding anything in the foregoing sentence to the contrary, the following are excluded from this definition:

(a) Ministerial activities performed by Metro Officers; and

(b) Activities performed by Metro Officers in their roles on any boards or commissions that (i) are performing a ministerial function or (ii) are performing a discretionary function, but a public hearing is held as part of that discretionary function.

CULTURAL DISPLACEMENT. Changes in the scale in a neighborhood where shops and services shift to focus on new resident, the character of the neighborhood is transformed, and the remaining residents feel a sense of dislocation despite remaining in the neighborhood.

DEVELOPMENT. The performance of any man-made change to improved or unimproved real estate, including, but not limited to, building or mining, dredging, filling, grading, paving, excavating, or change in the use or appearance of any structure or

land; the division of land into two or more parcels, any construction of improvements or clearing or the alteration of any land from a natural state to facilitate a residential, commercial, business, industrial or public use.

DIRECT DISPLACEMENT. Changes in a neighborhood when residents can no longer afford to remain in their homes due to rising housing costs, or are forced out by lease non-renewals, evictions, eminent domain or physical conditions that render homes uninhabitable as investors await redevelopment opportunities.

DISPLACEMENT. Consists of direct displacement, indirect displacement and cultural displacement.

INDIRECT DISPLACEMENT. Changes in the demographics regarding who is moving into a neighborhood as low-income residents move out. In a neighborhood where there is gentrification, when homes are vacated by low-income residents, other low-income residents cannot afford to move into the neighborhood because rents and sales prices have increased.

GENTRIFICATION. Process of neighborhood change where higher-income and higher-educated residents move into a historically marginalized neighborhood, housing costs rise, and the neighborhood is physically transformed through new higher-end construction and building upgrades, resulting in the displacement of vulnerable residents and changes to the neighborhood's cultural character.

HISTORICALLY BLACK NEIGHBORHOODS. Areas in Metro Louisville that were settled by formerly enslaved people during the Reconstruction and Jim Crow eras following Emancipation.

LETTER OF SUPPORT. A letter of support issued on behalf of a development by Metro Louisville.

METRO OFFICER. The following persons shall be defined as a Metro Officer:

(1) Any person elected or appointed to the office of:

- a. Metro Mayor;
- b. Metro Council Member;

(2) Any person appointed as:

- a. Deputy Mayor;
 - b. Cabinet Secretary;
 - c. Chief Deputy;
 - d. Chief Administrative Officer;
 - e. Chief of Operations;
 - f. Agency Director;
 - g. Any Housing Authority Officer;
 - h. Deputy Director for Metro Government;
 - i. A legislative assistant to a Metro Council member;
 - j. A Metro Council Caucus staff member and all staff members that report to either or both Caucuses of the Louisville Metro Council;
 - k. Any position as determined by a person in subsection (1) of this definition that has the authority to enter into contracts over \$10,000 in value or make purchases of goods or services over \$10,000 in value;
- or

I. Any person nominated or appointed by the Metro Mayor or the Metro Council to a Metro Agency who has regulatory authority or has the independent authority to expend public funds.

SMALL AREA INCOME AND POVERTY ESTIMATES (SAIPE). The United States Census Bureau program which produces single-year estimates of income and poverty for all states and counties in the United States, as well as estimates of school age children in poverty for all 13,000 plus school districts.

§XX.02 NEIGHBORHOODS AND BOUNDARY LINES.

The neighborhoods that are designated Historically Black Neighborhoods and their boundaries include (maps showing the boundary lines of the designated neighborhoods are attached as Exhibit A to this Ordinance):

- (1) Berrytown. Bounded by Berrytown Road, La Grange Road, Ridge Road and North English Station Road.
- (2) California. Bounded by Oak, 9th Street, West Broadway and Oak Street.
- (3) Limerick. Bounded by Breckenridge Street, Fifth Street, Oak Street and CSX RR tracks. South of Oak Street, the eastern boundary is 7th Street until it crosses the RR tracks.
- (4) Little Africa. Bounded by 34th Street, Southwestern Parkway, Kirby Avenue and Algonquin Parkway. It comprised part of what are now the Chickasaw, Parkland and Park DuValle neighborhoods.
- (5) Petersburg. Bounded by Newburg Road, West Buechel/Watterson Park, Shepherdsville Road and Poplar Level Road.

(6) Russell. Bounded by West Market, 9th Street, West Broadway and I-264.

(7) Shawnee. Bounded by the Ohio River, Bank Street, I-264 and West Broadway.

(8) Smoketown. Bounded by Broadway, CSX RR tracks, Kentucky Avenue and I-65.

§XX.03 DISPLACEMENT ASSESSMENT.

(1) Any proposed development within the boundaries described in LMCO §XX.02 which seeks to utilize Metro resources, such as Metro-owned or controlled land, property, letters of support, certain Metro Officer activities, funding, or other local financial incentives as part of the development must undergo a displacement assessment to determine if residents are at risk of displacement because of the proposed development.

(2) All displacement assessments will include the following information: the developer's name, contact information, email address, phone number, address of proposed development, estimated construction start and end dates, and must be signed by the developer.

a. A residential development displacement assessment shall also include information regarding (i) for rental property, the proposed rent, compared to the most recent applicable small area fair market rent, as calculated by the U.S. Cabinet of Housing and Urban Development, for the development's zip code, (ii) for non-rental property, the proposed price point, compared to the most recent applicable median assessed

value for residential property, as listed by the Jefferson County Property Valuation Administrator for the specific Historically Black Neighborhood the development is located in. The proposed rent or price point must be deemed affordable housing, as applied to the most recent applicable small area income and poverty estimates, as calculated by SAIPE. If the proposed development is not deemed affordable housing, it fails the displacement assessment.

b. A commercial development displacement shall also include information regarding (i) for a retail development, the income demographic of its targeted customers, compared to the most recent small area income and poverty estimates, as calculated by SAIPE (if there is more than one retail establishment within the proposed development, this information shall be provided for each establishment), (ii) for an office development, _____.

c. A development that has both a residential and a commercial component shall also include the information in (a) and (b), above.

d. The information in the displacement assessment shall be submitted to, and reviewed and verified by, Develop Louisville or its successor. Develop Louisville, or its successor, shall note as part of its review and verification of the displacement assessment whether the proposed development passes or fails the assessment. The displacement assessment shall contain a line for the signature of the person who

reviewed and verified the displacement assessment, and shall be signed by that person.

(3) If the proposed development fails the displacement assessment, the development will be ineligible to utilize Metro-owned or controlled land, letters of support, certain Metro Officer activities, property, funding or other Metro financial incentives as part of the proposed development. The developer may revise the proposed development and submit a new displacement assessment, which that assessment receives a passing score, the development would become eligible to utilize the Metro benefits listed herein once the passing score is verified.

SECTION II: This Ordinance shall take effect upon its passage and approval.

Sonya Harward
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____

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