

ORDINANCE NO. _____, SERIES 2023

AN ORDINANCE CREATING A NEW CHAPTER OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF ORDINANCES (“LMCO”) PROTECTING COMMUNITIES IN LOUISVILLE METRO FROM DISPLACEMENT, TO BE KNOWN AS THE ANTI-DISPLACEMENT LAW, AND AMENDING LMCO 92.15. (AS AMENDED)

SPONSORED BY: COUNCIL MEMBERS ARTHUR, RASHAD, RENO-WEBER

WHEREAS, Louisville/Jefferson County Metro Government (“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 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, 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, 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...;” and

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the “Council”) desires to implement policies as recommended by the Housing Needs Assessment and Plan 2040 to promote fair housing, address discrimination and displacement, preserve existing housing and increase affordable housing.

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:

§169.01 TITLE.

The provisions of Sections 169.01-169.05 of the Louisville Metro Code of Ordinances shall be known as the Anti-Displacement Law.

§169.02 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(s) is/are paying no more than 30 percent of gross income for housing costs, including utilities.

BONA FIDE FARMING OPERATION. Has the same meaning as in LMCO § 99.01. This definition shall also include properties situated on five contiguous acres or more of land that are not actively being used in the operation and maintenance of a farm but have not been developed for a non-farming use.

CERTAIN METRO OFFICER ACTIVITIES. Discretionary activities performed by Metro Officers to assist a proposed development in Louisville Metro, when such activities are not performed in connection with a public process that allows for community input from the affected neighborhood. The public process should provide for at least one meeting in the affected 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.

COMMISSION. The Anti-Displacement Commission.

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.

DISPLACEMENT OR GENTRIFICATION. When existing residents move out of a neighborhood due to rising higher housing costs or are forced out by lease non-renewals, evictions, eminent domain or physical conditions that render housing units uninhabitable as investors await redevelopment opportunities.

DISPLACEMENT RISK AREAS. Housing market areas with higher renter rates as defined by Metro's Office of Housing and Louisville Affordable Housing Trust Fund's Housing Needs Assessment, updated every five years.

LETTER OF SUPPORT. A letter of support issued on behalf of a development by Metro Government with commitment of Metro Resources.

METRO OFFICER. Has the same meaning as in LMCO § 21.01.

METRO RESOURCES. Resources used to support a development project, including Metro-owned or controlled land, property, letters of support, certain Metro Officer activities, industrial revenue bonds, tax abatements, tax increment financing, funding above \$50,000 from Metro Government, or other local financial incentives.

OFFICE. Office of Housing and Community Development, or its successor.

RESIDENTIAL COMPONENT. A development has a residential component if any part of the development will be used as one or more housing units, as defined in §119.01.

§169.03 INVESTIGATIONS OF DISCRIMINATORY PRACTICES.

The results of any investigation by Metro Government into discriminatory practices by either Metro Government or third parties against households or businesses located within Louisville Metro shall be provided upon request to any resident or owner of a business located within Louisville Metro in accordance with the Kentucky Open Records Act and subject to KRS 344.

§169.04 DISPLACEMENT ASSESSMENT.

(1) Beginning six (6) months from the effective date of this Ordinance, any proposed development that (a) contains a residential component, (b) is located within Louisville Metro and (c) is not developing land that, at the time the development is proposed, is a bona fide farming operation, which seeks to utilize Metro Resources 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) The displacement assessment form will be created by an accredited research department within an academic institution selected by the Office of Housing and Community Development and to be approved by Council, with an anticipated appropriation for the creation of the form of not more than \$50,000. The Office of Housing and Community Development will work with the selected academic institution to create a results matrix indicating when a development would be ineligible for Metro Resources, based on the results of the assessment. Prior to the form and results matrix being used, the displacement assessment form and results matrix shall be presented to, and approved by, Council. Such a form will include, but not be limited to, 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. The 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 neighborhood the development is located in. The proposed rent or price point must be deemed affordable housing, according to the housing needs of the market area in accordance with the most recent applicable Housing Needs Assessment.

b. The information in the displacement assessment shall be submitted to, and reviewed and verified by, the Office. 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.

c. Once the information in the displacement assessment has been reviewed and verified by the Office, the results will be attached to any legislation relating to the development that is the subject of the displacement assessment prior to a vote on the legislation by the Council.

**§169.05 LOUISVILLE METRO ANTI-DISPLACEMENT COMMISSION;
ESTABLISHMENT, PURPOSE AND MEMBERS.**

(1) There is hereby created the Louisville Metro Anti-Displacement Commission, hereinafter referred to as the Commission.

(2) The Commission is hereby established for the following purposes:

a. To periodically review how the displacement assessment program is being implemented, and based on that review, to provide recommendations to the Mayor and the Council as to any needed amendments to this Chapter.

b. To review results of any investigation by the Human Relations Commission or another Metro agency into discriminatory practices by either Metro Government or third parties against households or businesses located within Louisville Metro, subject to KRS 344, and based on that review, to provide recommendations to the Mayor and the Council as to needed amendments to this Chapter.

c. To review any findings by the Human Relations Commission, either directly by the Human Relations Commission or any administrative body to which the Human Relations Commission referred its investigation to for a decision, that conclude, in a final order or decision, that Metro Government discriminated against households or businesses located within Louisville Metro, and based upon that review, refer such discriminated households or businesses to Metro Government programs that are either Metro-wide in scope, or include the applicable neighborhood, for one or more of the following, as applicable:

- i. Home and commercial property down payment assistance;
- ii. Home repair funds;
- iii. Property reunification; and
- iv. Any other programs that may be created by Metro Government to provide assistance to households and businesses against gentrification.

Such referred households or businesses shall have priority for those programs, unless the program specifically identifies another geographic area as having priority, in

which case, such referred households or businesses shall have second priority.

d. To partner with the Louisville Affordable Housing Trust Fund and the Office on updating the Housing Needs Assessment every five (5) years.

(3) The Commission shall consist of nine (9) voting members and three (3) ex officio non-voting members as follows:

a. The nine (9) voting members shall be appointed by the Mayor, and approved by Council, and shall consist of individuals from the Displacement Risk Areas.

b. The following shall serve as ex officio and non-voting members of the Commission:

i. One representative from the Office appointed by the Mayor; and

ii. One representative from the Human Relations Commission appointed by the Mayor, and

iii. One representative from the Department of Economic Development appointed by the Mayor.

(4) Members shall serve without compensation.

(5) Appointments should reflect the requirements set forth in this Section and not the general diversity requirements contained in LMCO 32.001(C).

(6) Appointments should reflect the average percentage of renters and homeowners in the Displacement Risk Areas.

(7) Members who are residents representing a Displacement Risk Area must have lived in ~~their neighborhood~~ any Displacement Area for at least ~~ten (10) consecutive~~ seven (7) collective years prior to the date of appointment and must maintain their primary residence in their neighborhood during the term of their appointment. If the member

ceases to maintain primary residence in ~~their neighborhood~~ the Displacement Area, they must resign.

(8) Appointments shall ensure that no appointee ~~has a direct financial interest in the land development or construction industry~~ is employed as a real estate developer. All members of the Commission shall be required to disclose any personal or family commercial interest relevant to land use, new development supply or new development construction. The disclosure shall be a written, signed statement of the general nature of the member's interest.

(9) The appointment term of each Commission member shall be three years, except for initial appointment terms, which shall be staggered as follows: three members appointed to one-year terms, three members appointed to two-year terms and three members appointed to three-year terms.

(10) Members may serve two consecutive terms. Members of the initial Commission or subsequent members who have rotated off the Commission may be considered for reappointment no sooner than three years from the expiration of their final consecutive term and may only serve one additional three-year term upon reappointment.

(11) All members shall serve until their successor is appointed and qualified. In filling vacancies prior to the expiration of the stated term of membership, the appointment of a successor shall be for only the remainder of the unexpired term.

(12) The Commission shall meet not less than twice annually in a space provided by Metro Government, preferably in a space located in a Displacement Risk Area.

(13) A majority of the members of the Commission shall constitute a quorum for transaction of business at any meetings of the Commission.

(14) The Commission shall adopt bylaws and other rules as it deems necessary for its organization and proceedings consistent with the laws, ordinances and resolutions of the Commonwealth of Kentucky and Metro Government.

(15) The Commission is subject to the Kentucky Open Meetings and Open Records laws.

(16) A member may be removed from office by the Mayor or Council pursuant to KRS 67C.143 for misconduct, ~~inefficiency~~ incapacity or willful neglect of duty. The Mayor must submit a written statement to the member setting forth the reasons for removal.

(17) Staff assistance to the Commission shall be provided by the Office and the Human Relations Commission.

SECTION II: LMCO § 92.15 is amended to read as follows:

§ 92.15 PENALTY.

(A) In addition to any remedial order, if the Commission finds that any person has committed an unlawful practice with regard to housing, as defined in this chapter, it may subject such person to a fine not greater than civil penalties established by the Federal Fair Housing Act in Section 812. The Commission may, if such person refuses to pay the fine, file an action in the Jefferson Circuit Court for the collection thereof.

(B) If a real estate broker, a real estate salesman, or an employee thereof has failed to comply with any order issued by the Commission, or has been found to have committed an unlawful housing discrimination practice in violation of this chapter, the Commission shall so notify in writing the Real Estate Commission of the Commonwealth of Kentucky.

(C) If Metro Government has been found by the Commission in a final order or decision, either directly or by any administrative body to which the Commission referred its investigation to for a decision, to have discriminated against households or businesses located within Louisville Metro, the Commission shall provide a copy of such final order or decision to the Anti-Displacement Commission.

SECTION III: This Ordinance shall take effect upon its passage and approval or otherwise becoming law.

Sonya Harward
Metro Council Clerk

Markus Winkler
President of the Council

Craig Greenberg
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____

O-071-23 – Ordinance Creating A New Chapter of LMCO Protecting Neighborhoods in Louisville Metro from Displacement to be known as the Anti-Displacement Law and Amending LMCO 92.15 (As Amended).docx (TF 10-31-23)