

ORDINANCE NO. _____, SERIES 2023

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

SPONSORED BY: COUNCIL MEMBERS ARTHUR AND RASHAD

~~**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.html>, “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, it is intended that the Housing Needs Assessment be periodically updated, and at which time additional neighborhoods may be identified as being at a high risk of displacement; and

WHEREAS, the neighborhoods identified at greater risk of gentrification in the Housing Needs Assessment are also areas with higher renter rates; 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, Louisville Metro is committed to affirmatively furthering fair housing efforts by promoting fair and equal housing opportunities for its residents, including recognizing both state and federal fair housing laws that address discrimination; and

WHEREAS, one way of prompting fair and equal housing opportunities is to eliminate barriers and preserve existing housing options for tenants; 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 containing a residential component 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:

§169.01 TITLE.

The provisions of Sections 169.01-169.05~~6~~ of the Louisville Metro Code of Ordinances shall be known as the Anti-Displacement~~Historically Black Neighborhoods~~ 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. The operation and maintenance of a farm, situated on five contiguous acres or more of land used for the production of livestock, poultry, poultry products, dairy, dairy products, or horticulture products or for the growing of crops such as, but not limited to, tobacco, corn, soybeans and wheat.

CERTAIN METRO OFFICER ACTIVITIES. Discretionary activities performed by Metro Officers to assist a proposed development in Louisville Metro~~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. The public process should provide for at least one meeting in 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.

COMMISSION. ~~The Anti-Displacement, Historically Black Neighborhoods~~
Commission.

CULTURAL DISPLACEMENT. Changes in the scale in a neighborhood where shops and services shift to focus on new residents, 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.

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.

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, which boundaries are described in Section 169.03.~~

LETTER OF SUPPORT. A letter of support issued on behalf of a development by Metro Louisville 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 but not limited to 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.

NEIGHBORHOOD MEDIAN INCOME. The median household income for the applicable neighborhood data profile where the proposed development project is located, which data is compiled by a partnership between Metro United Way and the Kentucky State Data Center at the University of Louisville and can be found at <https://metrounitedway.org/neighborhood-data-profiles/>.

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 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 26th Street.
- (3) Limerick. Bounded by Brockinridge 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.~~

§169.04 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~~the Historically Black Neighborhoods~~ shall be provided upon request to any resident or owner of a business located within Louisville Metro~~the Historically Black Neighborhood~~ in accordance with the Kentucky Open Records Act and subject to KRS 344.

§169.045 DISPLACEMENT ASSESSMENT.

(1) Beginning six (6) months from the effective date of this Ordinance, any proposed development that (a) contains a residential component, and (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,~~the Historically Black Neighborhoods~~ 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~~Human Relations Commission~~the Office of Housing and Community Development and to be approved by Metro Council, with an anticipated appropriation for the creation of

the form of not more than \$50,000. 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. ~~A residential development~~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 ~~Historically Black~~ 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 ~~as applied to the most recent applicable Louisville Housing Needs Assessment neighborhood median income~~. If the residential component of 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 applicable neighborhood median income (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, the anticipated rent/lease rates for the development compared to comparable rent/lease rates for the specific Historically Black Neighborhood the development is located in. If the proposed development is not deemed comparable in terms of the median income of the targeted customers or the applicable rent/lease rates for the development, it fails the displacement assessment.~~

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

~~eb. The information in the displacement assessment shall be submitted to, and reviewed and verified by, ~~Develop Louisville~~the Office of Housing and Community Development or its successor. 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.~~

~~ec. Once the information in the displacement assessment has been reviewed and verified by ~~Develop Louisville~~the Office of Housing and Community Development, or its successor, if the development fails the displacement assessment it shall be sent to the Commission for further review and input as to how to make the development more affordable to determine whether the proposed development passes or fails the displacement assessment.~~

(3) If the proposed development fails the displacement assessment, the development will be ineligible to utilize Metro Resources as part of the proposed development. After the Commission has conducted its review and provided input the developer may revise the proposed development and submit a new displacement assessment. If that new displacement assessment receives a passing score, the development would become eligible to utilize the Metro Resources once the passing score is verified.

~~(4) Develop Louisville or its successor may elect to utilize the displacement assessment for developments proposing to utilize Metro Resources in other neighborhoods identified as being at risk of gentrification in either the Housing Needs Assessment or any updates to the Housing Needs Assessment, and can use the information gathered from such utilization to make recommendations regarding the potential adoption of a displacement assessment requirement for these neighborhoods.~~

§169.056 LOUISVILLE METRO ANTI-DISPLACEMENT HISTORICALLY BLACK NEIGHBORHOODS COMMISSION; ESTABLISHMENT, PURPOSE AND MEMBERS.

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

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

- a. To ~~determine whether~~ review a proposed development that (i) contains a residential component and (ii) is located in Louisville Metro, in a Historically Black Neighborhood which seeks to utilize Metro Resources as part of the development has failed passed the displacement assessment.

- b. To periodically review how the displacement assessment program is being implemented, and based on that review, to provide recommendations to the Mayor and the Metro Council as to any needed amendments to this Chapter and/or expansion of the displacement assessment program to other neighborhoods at risk of gentrification.
- c. 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 ~~Historically Black Neighborhoods~~, subject to KRS 344, and based on that review, to provide recommendations to the Mayor and the Metro Council as to needed amendments to this Chapter.
- d. 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 ~~Historically Black Neighborhoods~~, 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 ~~Historically Black N~~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.

- ~~e. To accept submissions of written, oral or photographic history of events and residents in Historically Black Neighborhoods, and to create a way to maintain those records, such as by creating and maintaining a website that the public can use to access those records, and working with public library branches within Historically Black Neighborhoods to archive and display such historical submissions.~~
- e. To partner with the Louisville Affordable Housing Trust Fund and the Office of Housing and Community Development on updating the Housing Needs Assessment every five (5) years.

(3) The Commission shall consist of ~~nine (9) voting members and two (2) ex officio non-voting members, and shall be appointed~~ as follows:

- a. ~~Sixteen~~The nine (9) voting members shall ~~individuals to~~ be appointed by the Mayor, and approved by Metro Council, ~~and shall consisting of two (2) individuals from each of the Displacement Risk Area~~ eight (8) Historically Black Neighborhoods.

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

- i. One representative from the Office of Housing and Community Development appointed by the Mayor; and
- ii. One representative from the Human Relations Commission appointed by the Mayor.

~~c. One representative from the Office of Housing and Community Development; and~~

~~d. One representative from Louisville Forward; and~~

~~e. One representative from the Human Relations Commission.~~

(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 racial demographics of the ~~Displacement Risk Areas~~ Historically Black Neighborhoods as of the most recent census, and should also reflect the average percentage of renters and homeowners in the ~~Displacement Risk Areas~~ Historically Black Neighborhoods.

(7) Members who are residents representing a ~~Displacement Risk Area~~ Historically Black Neighborhood must (i) have lived in their neighborhood for at least ten (10) consecutive 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, they must resign.

- (8) Appointments shall ensure that none of the appointees have a direct financial interest in the land development or construction industry. 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: five members appointed to one-year terms, five members appointed to two-year terms and six 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 Louisville Metro Government, preferably in a space located in a Displacement Risk Area~~Historically Black Neighborhood~~.
- (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 Louisville/Jefferson County Metro Government.
- (15) The Commission shall elect a Chair from its members. The Chair shall be elected annually.
- (16) The Commission is subject to the Kentucky Open Meetings and Open Records laws.
- (17) A member may be removed from office by the Mayor or Metro Council pursuant to KRS 67C.143 for misconduct, inefficiency or willful neglect of duty. The Mayor must submit a written statement to the member setting forth the reasons for removal.
- (18) Staff assistance to the Commission shall be provided by ~~Develop Louisville~~the Office of Housing and Community Development 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 ~~Historically Black Neighborhoods~~, the Commission shall provide a copy of such final order or decision to the ~~Anti-Displacement Historically Black Neighborhoods~~ 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 Direct, Indirect and Cultural Displacement Regarding Historically Black Neighborhoods to be known as the Anti-Displacement Historically Black Neighborhoods Law and Amending LMCO 92.15 (as amended) 09/28/23 (CAM) (f)