

ORDINANCE NO. _____, SERIES 2022

AN ORDINANCE AMENDING SECTIONS 131.01, 131.02, AND 131.03 OF THE LOUISVILLE METRO CODE OF ORDINANCES (“LMCO”) RELATING TO CAMPING ON METRO PROPERTY, AND SECTIONS 42.31, 42.32, AND 42.99 OF THE LMCO RELATING TO CAMPING IN METRO PARKS, AND SECTION 97.072 OF THE LMCO REGARDING OBSTRUCTION OF SIDEWALKS AND PUBLIC WAYS. (AS AMENDED BY SUBSTITUTION)

SPONSORED BY: COUNCIL MEMBERS GEORGE, MULVIHILL, AND PRESIDENT JAMES

WHEREAS, public space should be accessible to everyone, appropriately sourced, and managed; and

WHEREAS, unmanaged public space creates consequences for all neighbors, including compromised health and elevated safety risks; and

WHEREAS, neighborhoods located adjacent to transportation infrastructure are disproportionately impacted by unmanaged public space; and

WHEREAS, all community members have a right to know the community’s expectations as a matter of dignity.

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

SECTION I: LMCO § 131.01 is hereby amended as follows:

§ 131.01 CAMPING OR STORING PERSONAL PROPERTY ON CERTAIN PUBLIC PROPERTY PROHIBITED. DEFINITIONS.

~~—(A) Definition of terms.—~~For the purpose of ~~this section~~ §§ 131.01 through 131.04, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAMP. Means public property where one or more persons are camping.

~~CAMP or CAMPING.~~ Means the use of public ~~land or public premises~~ property for temporary living accommodation purposes by the occupation or habitation of an area, ~~location or property~~ through the use of temporary shelters, and/or recreational vehicles and/or camping paraphernalia. ~~In no event may a camp be established in less than 48 hours.~~

CAMPING PARAPHERNALIA. Means equipment or supplies that are used by a person or persons to facilitate camping, which includes but is not limited to grills, outdoor cookers, lanterns, latrines, tents, huts, cots, beds, sleeping bags, bedrolls, knapsacks, hammocks, tarpaulins, canvases, lean-to's, temporary shelters of whatever kind, or other similar type equipment or supplies.

EMERGENCY. Means situations when a failure to act immediately could lead to serious harm to public health or safety.

~~HOMELESS. Means the definition of "Homeless" set forth at 24 C.F.R. § 91.5.~~

PERSONAL ITEMS. Means any item that is reasonably recognizable as belonging to a person and has apparent utility and does not include items that have no apparent utility or in an unsanitary condition, including, but not limited to, identification documents, birth certificates, and other personal documents and effects.

PUBLIC PROPERTY. Means any real property owned by, or leased to ~~or controlled by~~ Metro Government located within the boundaries of Jefferson County, which includes but is not limited to green spaces, open spaces, right-of-ways, public sidewalks, crosswalks, streets, curbs, public alleyways, public passageways, publicly owned commercial lots, publicly owned residential lots, publicly owned vacant lots, or publicly owned cleared lots ~~or any other Metro Government owned properties located within the boundaries of Jefferson County,~~ but does not include the public parks owned, leased to, or ~~and~~ managed by the Louisville Metro Parks Department;_; property owned, leased to, or ~~and~~ managed by the Waterfront Development Corporation;_; property owned, leased to, or ~~and~~ managed by the Parking Authority of the River City ("PARC");_; property leased by Metro and managed by the Kentucky Administrative Office of the Courts;_; or property owned, leased, or managed by the Commonwealth of Kentucky or its agencies.

RECREATIONAL VEHICLE. Means a motor vehicle, trailer or hybrid trailer that is equipped with amenities and features intended for the owner or others to use for the purposes of leisure activities, camping and/or sleeping, including but not limited to, motor homes, travel trailers, camper vans, truck campers, pop-up campers, teardrop trailers, fifth-wheels, toy haulers or motor homes.

STORE. Means to put aside or accumulate for use when needed, or to put, place, or leave in a location for safekeeping or future use.

TEMPORARY SHELTER. Means a non-permanent accommodation that is intended to be used by a person or persons for protection from the various weather elements while camping which includes, but is not limited to, tents, huts, cots, beds, sleeping bags, bedrolls, knapsacks, hammocks, tarpaulins, canvases, lean-to's or other similar types of equipment or structure.

~~(B) General provisions.~~

~~(1) It shall be unlawful for any person to camp or utilize camping paraphernalia, recreational vehicles or temporary physical shelters, or, to store camping paraphernalia,~~

~~recreational vehicles or temporary shelters, on any public property within the boundaries of Metro Government that:~~

~~—(a) Metro Government, its officers, agencies, or departments use for offices, operations, storage, or other governmental purpose; or~~

~~—(b) Metro Government leases to, or has a management agreement with, another governmental or quasi-governmental agency, or any corporation, organization, or person; or~~

~~—(c) Is zoned exclusively for residential use or has an occupied or unoccupied house or commercial structure on the public property; or~~

~~—(d) Is three acres or less in total area.~~

~~—(2) It shall be unlawful for any person to store camping paraphernalia, recreational vehicles or temporary physical shelters or any other personal property on any public property less than three acres in size.~~

~~—(3) Camping may be permitted on public property larger than three acres in size by making application for a camping permit to the Director of the Department of Public Works and Assets (the Director). Application for a camping permit shall be made on a form provided by the Director. Each application for a camping permit shall be signed by the individual or authorized representative of the organization that seeks to camp on public property, shall identify each person by name and address who will be subject to the camping permit, the address or location of the public property proposed to be used, the requested date(s) for camping which may not exceed five consecutive days, and such other information as required by the application form. Each application shall be accompanied by an application fee in the amount of \$25 for five campers or less, \$50 for six to ten campers, and for more than ten campers, \$5 for each camper named in the application. If the application is denied, all application fees will be refunded. In no event shall any person, individual whether as an individual applicant or as a member of a group of individuals applicant, or group of individuals identified in an application tendered by an organization, be permitted to camp for more than five consecutive days in a single calendar month at the same location or a total of 21 days on public property in a calendar year.~~

~~—(4) The Director shall have the discretion to implement such regulations for the issuance of camping permits the Director deems necessary to prevent the misuse or abuse of public properties and insure the public health, welfare, and safety of Metro citizens. All such regulations and any amendments thereto shall be approved by the Mayor before they become effective. The County Attorney shall approve all such regulations as to form and legality prior to submission to the Mayor.~~

~~—(C) *Exceptions.*~~

~~—(1) This section shall not apply to anyone camping or utilizing camping paraphernalia, recreational vehicles, or temporary physical shelters in specified areas that have been designated by the Metro Department of Parks or other appropriate governmental authority as camp sites, camping areas, camping facilities, campgrounds, sleep facilities, and other similar type areas.~~

~~—(2) Nothing in this section is intended to prohibit camping or sleeping on private residential property by friends and family of the property owner, so long as the owners thereof consent and no zoning and/or land use law or regulation prohibits such use.~~

~~—(D) *Enforcement and penalties.* Any violation of this section shall be classified as a civil offense and shall be enforced through the Code Enforcement Board as provided in §§ 32.275 et seq. or as it may be amended. The civil penalty for any violation of this section shall be as follows: any person that violates any provision of this section shall be liable for a civil fine in an amount of not less than \$50 nor more than \$200 for each violation. Each day a violation continues shall be a separate violation of this section.~~

SECTION II: A new section of LMCO Chapter 131 under the subtitle “Camping on Public Property” is hereby created by amending subsections (B), (C), and (D) of the existing LMCO § 131.01 as follows:

§ 131.02. ~~CAMPING OR STORING PERSONAL PROPERTY ON CERTAIN PUBLIC PROPERTY PROHIBITED~~

~~(B)~~ General provisions.

~~(1) It shall be unlawful for any person to camp or utilize camping paraphernalia, recreational vehicles or temporary physical shelters, or, to store camping paraphernalia, recreational vehicles or temporary shelters, on any public property within the boundaries of Metro Government that:~~

~~—(a) Metro Government, its officers, agencies, or departments use for offices, operations, storage, or other governmental purpose; or~~

~~—(b) Metro Government leases to, or has a management agreement with, another governmental or quasi-governmental agency, or any corporation, organization, or person; or~~

~~—(c) Is zoned exclusively for residential use or has an occupied or unoccupied house or commercial structure on the public property; or~~

~~—(d) Is three acres or less in total area. Camping on public property for more than 12 consecutive hours, or between sundown and sunrise, without a written permit issued by a Metro Government department is unlawful.~~

~~—(2) It shall be unlawful for any person to store camping paraphernalia, recreational vehicles or temporary physical shelters or any other personal property on any public property less than three acres in size.~~

~~(3)~~ Camping may be permitted on public property larger than three acres in size by making application for a camping permit to the Director of the Department of Public Works and Assets (the Director). Application for a camping permit shall be made on a form provided by the Director. Each application for a camping permit shall be signed by the individual or authorized representative of the organization that seeks to camp on public property, shall identify each person by name and address who will be subject to the camping permit, the address or location of the public property proposed to be used, the

requested date(s) for camping which may not exceed five consecutive days, and such other information as required by the application form. Each application shall be accompanied by an application fee in the amount of \$25 for five campers or less, \$50 for six to ten campers, and for more than ten campers, \$5 for each camper named in the application. If the application is denied, all application fees will be refunded. In no event shall any person, individual whether as an individual applicant or as a member of a group of individuals applicant, or group of individuals identified in an application tendered by an organization, be permitted to camp for more than five consecutive days in a single calendar month at the same location or a total of 21 days on public property in a calendar year.

(43) The Director shall have the discretion to implement such regulations for the issuance of camping permits the Director deems necessary to prevent the misuse or abuse of public properties and insure the public health, welfare, and safety of Metro citizens. All such regulations and any amendments thereto shall be approved by the Mayor before they become effective. The County Attorney shall approve all such regulations as to form and legality prior to submission to the Mayor.

(B) Exceptions.

~~—(1)—This section shall not apply to anyone camping or utilizing camping paraphernalia, recreational vehicles, or temporary physical shelters in specified areas that have been designated by the Metro Department of Parks or other appropriate governmental authority as camp sites, camping areas, camping facilities, campgrounds, sleep facilities, and other similar type areas camping within Metro Parks, which is governed by § 42.31.~~

~~—(2)—Nothing in this section is intended to prohibit camping or sleeping on private residential property by friends and family of the property owner, so long as the owners thereof consent and no zoning and/or land use law or regulation prohibits such use.~~

(D) Enforcement and penalties. Any violation of this section shall be classified as a civil offense and shall be enforced through the Code Enforcement Board as provided in §§ 32.275 et seq. or as it may be amended. The civil penalty for any violation of this section shall be as follows: any person that violates any provision of this section shall be liable for a civil fine in an amount of not less than \$50 nor more than \$200 for each violation. Each day a violation continues shall be a separate violation of this section.

SECTION III: LMCO § 131.02 is hereby renumbered and amended as follows:

§ 131.02 131.03 PROTECTIONS IN THE EVENT OF DISPLACEMENT A FINDING OF RISK AND THE NEED FOR RELOCATION.

(A) Except as provided in subsection (B) of this section, no department or employee of Louisville Metro Government may relocate a person ~~who is homeless~~ from a camp ~~as defined in § 131.04~~ that has existed continuously in that area for 72 hours or longer, excluding holidays and weekends until Louisville Metro, through the Office of Resilience and Community Services in collaboration with the Department of Public Health and Wellness, the Coalition for the Homeless or a like organization, Louisville Metro Police Department, and the Department of Public Works, or any successor agencies, has

assessed the individual(s) in the camp and the camp's relationship to its neighbors using a consistent methodology to determine the risk to public health or safety and the intensity of service provision that will be offered and given appropriate notice, but no less than 21 days' notice, to the persons living in the camp and to the Coalition for the Homeless or a like organization. A preliminary risk assessment shall be conducted within ten business days of the Office of Resilience and Community Services or a successor agency receiving initial notification of an encampment. The relocation must take place by Louisville Metro within 21 days from the date of the Notice expiring, otherwise a new 21-day Notice must be given for the relocation. Notice to the persons ~~who are homeless~~ in the camp shall consist of signs posted in a conspicuous place at the camp giving the earliest date on which personal property may be removed. The signage shall include a visual symbol or symbols as well as text. Notice to the Coalition for the Homeless or a like organization should be given through a phone call or email requesting verification that it has been received.

(B) Louisville Metro shall provide whatever notice of relocation is reasonable under the circumstances to both the person(s) ~~who are homeless~~ in the camp and to the Coalition for the Homeless or a like organization, with organizational notice given through a phone call or email requesting verification that it has been received, when Louisville Metro makes a written determination, after conducting the risk assessment called for in subsection (A) of this section, that an emergency exists.

(C) If a risk assessment has been conducted for a camp in accordance with subsection (A) of this section, and the determination has been made to relocate the persons in the camp ~~who are homeless~~, the Office of Resilience and Community Services or a successor agency shall make demonstrated efforts to communicate the findings from the risk assessment, and the specific number of days required for action, to the Office's community contacts in the affected neighborhood. These community contacts shall include, but shall not be limited to, the Metro Council member for the district(s) in which a camp is located, neighborhood associations, and active community groups directly impacted by the posting of notice of relocation.

(D) Upon receiving the notice described in subsection (A), the Coalition for the Homeless or a like organization may notify participating service providers, faith-based organizations, street ministries and volunteers to offer the persons to be relocated available assistance, including any available assistance with transitional or permanent housing, and other services.

(E) The Coalition for the Homeless or a like organization shall be provided at least three days' notice of the actual date and time when a person ~~who is homeless~~ is to be relocated so that participating service providers, faith-based organizations, street ministries and volunteers are on site at the time of the relocation to offer assistance.

~~(E)~~ The protections of this section shall not apply to locations where:

(1) Permanent, conspicuous notices are posted that camps are not allowed based on the results of the risk assessment conducted in accordance with subsection (A) of this section, and that personal items are subject to be removed immediately and where removal of such items occurs on a regular basis; or

(2) A camp has existed for fewer than 72 continuous hours, excluding holidays and weekends. Before relocating a person from a camp under this subparagraph, a minimum of 48 hours' advance notice shall be given, unless the camp presents an imminent safety risk to the persons in the camp or to others, in which case no notice is required. The 48 hours' advance notice of removal shall be given:

(a) To the affected person. Posting of a written notice in the area will satisfy the 48 hours' in advance notice requirement, but all reasonable efforts should be made to provide individualized verbal notice as well;

(b) To an entity designated by the Coalition for the Homeless or a like organization; and

(c) To street outreach teams designated by the Office of Resilience and Community Services or any successor agencies.

(FG) Any Louisville Metro employee found to be in violation of this subsection may be disciplined, up to and including termination and shall attend a training session regarding the implementation of this section to be conducted by the Office of Resilience and Community Services or its successor agency.

(GH) The Office of Resilience and Community Services or a successor agency shall submit an annual written summary of anonymized risk assessment data to the Metro Council. In order to conduct a special committee discussion on the topic, Metro Council shall assign the summary to a committee for review.

SECTION IV: LMCO § 131.03 is hereby renumbered as follows:

§ 131.03 131.04 PERSONAL PROPERTY STORAGE.

SECTION V: LMCO § 42.31 is hereby amended in part as follows:

§ 42.31 RESTRICTIONS; PROHIBITED ACTIVITIES.

...

(C) Other restrictions.

(1) Removal of natural resources. It shall be unlawful for any person to remove any natural resource including, but not limited to, plant material, animals, birds, soil, rocks, water, or other natural resources (but excepting fish where fishing is authorized by the Director of Parks) from any park, parkway or playground in Louisville Metro.

(2) Burning.

(a) For the purpose of this section "open fire" shall mean any intentionally ignited bonfire, recreational fire, or maintenance burn conducted in parks by the Parks Department, or those or any other similar burn conducted by any other person in the open air in parks within the boundaries of Louisville Metro. Any maintenance burn shall require a permit from the Air Pollution Control Board.

(b) No person shall kindle or maintain an open fire within any park or playground in Louisville Metro, with the exception of: (1) recreational fires in area specifically designated by the Director of Parks for such fires, and only if approved in advance by the Director of Parks and the Fire Chief of the Division of Fire or a Fire Protection District, as the case may be, and; (2) maintenance burns conducted by the Parks Department. The Director of Parks shall designate to the Fire Chief of the Division of Fire or a Fire Protection District areas appropriate for recreational fires, and areas where the Parks Department proposes to conduct maintenance burns. The Fire Chief of the Division of Fire or of a Fire Protection District may authorize recreational fires only in areas specifically approved by the Director of Parks, and may authorize maintenance burns conducted by the Parks Department in areas proposed by the Director of Parks. Open recreational fires shall be attended at all times by a person not less than 18 years of age.

(D) Camping and Facilities.

(1) Camping. It shall be unlawful for any person to camp in any Metro Park at any time of day without a permit issued by the Director of Parks, and then only in areas specifically designated for camping by the Director of Parks.

(2) Facilities. Except when park facilities have been expressly reserved through the Parks Department, no person shall prevent the shared use park facilities which are otherwise open to the public. For the purposes of this subsection, "facilities" include athletic fields, athletic structures, lodges, restrooms, community rooms, picnic shelters, clubhouses, and other permanent structures.

SECTION VI: LMCO § 42.32 is hereby amended as follows:

§ 42.32 CLOSING HOURS FOR PARKS AND PLAYGROUNDS.

The parks and playgrounds of Louisville Metro shall close at 11:00 p.m. and shall remain closed until 6:00 a.m., and, with the exception of non-stop through traffic only, ~~overnight camping in areas designated by the Director of Parks,~~ or by written permit from the Director of Parks, it shall be unlawful for any person other than police, fire and other emergency service personnel, public utility personnel, and Parks Department and other Metro Government agency personnel, while on official business only, to enter upon any park or playground of Louisville Metro during hours when such park or playground is closed. Except in the case of an emergency, as determined by the Director of Parks, the Director of Parks shall provide notice to the public of closing hours of parks and playgrounds and may change the closing hours when necessary in consultation with representative(s) of the Council District(s) in which the park or playground is located.

SECTION VII: LMCO § 42.99 is hereby amended as follows:

§ 42.99 PENALTY.

(A) Any person who violates any of the provisions of §§ 42.31(A) or (B) or 42.32 shall be fined not less than \$50 nor more than \$250 for each offense. Each day's continued violation shall constitute a separate offense.

(B) Any person who violates any of the provisions of § 42.31(C) shall be fined not less than \$100 nor more than \$500 for each offense.

(C) Any person who violates any of the provisions of 42.31(D) shall be fined not less than \$1 nor more than \$5 for each offense.

SECTION VIII: LMCO § 97.072 is hereby amended as follows:

§ 97.072 BLOCKING SIDEWALKS. PERSONAL PROPERTY OBSTRUCTING PEDESTRIAN TRAFFIC ON PUBLIC WAYS

~~—It shall be unlawful for any person in or on any sidewalk or any premises in or abutting thereon to make any speech or harangue; to demonstrate, sell, or offer for sale goods, wares, or merchandise; or to display any signs, device, information, or exhibition in consequence of which there is caused or created such a gathering of persons on the sidewalk as to interfere with pedestrian traffic thereon.~~

(A) (1) No person shall store personal property on any street, alley, sidewalk, or public way in a manner which substantially impedes the flow of pedestrian traffic except at times or in areas where expressly permitted by the Department of Public Works or other appropriate governmental authority.

(2) For the purposes of this subsection, store shall mean to put aside or accumulate for use when needed, or to put, place, or leave in a location for safekeeping or future use.

(B) (1) When subsection (A) of this section is violated, and the violation is observed by Louisville Metro, if the owner of the personal property is present when the violation is observed, Metro shall issue a verbal warning to the property's owner that if the property continues to substantially impede the flow of pedestrian traffic, the property impeding pedestrian traffic may be subject to removal.

(2) (a) If the owner of the personal property is not present, or if a verbal warning has been issued and the property continues to substantially impede the flow of pedestrian traffic, Louisville Metro may cause the personal property to be removed to a Metro facility and held. After 30 days, Metro may dispose of any unclaimed items.

(b) Personal property with no apparent utility, property not attributable to a specific individual, or property which is unsanitary may be disposed of at the time of removal. Personal property reasonably determined to have been abandoned may be disposed of at the time of removal.

(C) (1) Louisville Metro shall make a reasonable effort to determine the owner of the personal property for the purpose of providing written notice to that person of the removal of the property to a specified Metro facility and the procedures to claim the personal property.

(2) Additionally, Louisville Metro shall leave notice at or nearby the site from which the personal property was removed.

(D) The Director of the Department of Public Works shall develop such rules, regulations, and policies as are necessary for the orderly and complete administration of this section.

SECTION IX: LMCO § 97.999 is hereby amended as follows:

§ 97.999 PENALTIES.

(A) Except for § 97.072, a violation of this chapter shall be classified as a civil offense (the terms "violation" and "offense" may be used interchangeably with this chapter), and shall be enforced by the Code Enforcement Board ("Board"), as provided in §§ 32.275 et seq., or as they may be amended. Penalties relating to multiple offenses shall be imposed when a person previously has been determined by the Board to have committed such violation(s). The date of determination of commission of multiple offenses shall be the date that the person is charged with commission of the violation.

(1994 Jeff. Code, § 97.02) (Jeff. Ord. 4-1976, adopted and effective 10-26-1976)

(B) Any responsible party failing to comply with the provisions of §§ 97.011 through 97.014 shall be subject to the fines listed in Exhibit C, the Civil Penalty Schedule of the Property Maintenance Code, set forth in Chapter 156 of this Code of Ordinances.

(1994 Jeff. Code, § 97.16) (Jeff. Ord. 41-1996, adopted and effective 11-12-1996)

(C) Any responsible party failing to comply with the provisions of subsections relating to excavation, currently numbered §§ 97.091 through 97.094; and subsections relating to commercial driveways, currently numbered as § 97.114, or as any of these subjects may be renumbered hereafter, shall be subject to the following monetary penalty schedules:

(1) Not less than \$1,000, nor more than \$1,250 for a first offense;

(2) Not less than \$1,250, nor more than \$1,500 for a second offense committed within a two-year period;

(3) Not less than \$1,500, nor more than \$3,000 for a third offense committed within a three-year period.

(1994 Jeff. Code, § 97A.14) (Jeff. Ord. 14-1996, adopted and effective 3-26-1996)

(D) Any responsible party failing to comply with the provisions of subsections relating to snow removal, currently numbered as § 97.113, or as it may be renumbered hereafter, shall be subject to the following fines: not less than \$25, nor more than \$100.

(E) Any responsible party failing to comply with any section or subsection of this chapter for which another penalty specifically is not provided shall be subject to the following monetary penalty schedule:

(1) Not less than \$100, nor more than \$250 for a first offense;

(2) Not less than \$250, nor more than \$500 for a second offense committed within a two-year period;

(3) Not less than \$500, nor more than \$1,000 for a third offenses committed within a three-year period.

(F) Each separate occurrence, or each day a violation is permitted to continue after official notice of violation (warning or citation), may constitute a separate offense, for purposes of imposition of penalties.

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

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: _____