



OFFICE OF THE MAYOR
LOUISVILLE, KENTUCKY

GREG FISCHER
MAYOR

August 28, 2019

David James, President
Metro Council
City Hall, First Floor
Louisville, KY 40202

RE: Ordinances

Dear President James:

Please be advised that at least one ordinance (O-190-19) that was passed by the Metro Council on August 8, 2019 was delivered to my Office on August 23, 2019, one day after the Metro Council met on August 22, 2019, and 15 days after the passage of this legislation.

As you may know, this extensive delay violates KRS 83.500 which requires the Council to present the ordinances it passes immediately to me for my consideration.

I am returning this ordinance to you with an execution date of August 26th as I do not object to the content of this ordinance. Please ensure that the Metro Council Clerk complies with the law by delivering future legislation to the Mayor's office in a timely fashion.

Sincerely,

Greg Fischer
Mayor

Cc: Michael J. O'Connell, Jefferson County Attorney

ORDINANCE NO. 112, SERIES 2019

**AN ORDINANCE REPEALING CHAPTER 117 OF LOUISVILLE/
JEFFERSON COUNTY METRO GOVERNMENT CODE OF
ORDINANCES AND ENACTING A NEW SECTION FOR PEDESTRIAN
AND TRAFFIC SAFETY (AMENDMENT BY SUBSTITUTION)(AS
AMENDED)**

**SPONSORED BY: COUNCIL MEMBERS BLACKWELL, KRAMER,
MULVIHILL, PARKER, TRIPLETT, AND REED**

WHEREAS, at least 5977 pedestrians were killed in motor vehicle collisions nationally in 2017, a 45% increase since the lowest point in Insurance Institute for Highway Safety;

WHEREAS, according to the crash data from the Fatality Analysis Reporting System (FARS), for the year 2017, there were a total number of 37,133 fatal crashes in the United States and distracted driving claimed 3,166 from that total;

WHEREAS, in the past decade, the number of people struck and killed while walking increased by 35%;

WHEREAS, although fatalities decreased slightly in 2017, the last two years on record (2016 and 2017) were the most deadly years for people killed by drivers while walking since 1990, according to Smart Growth America;

WHEREAS, in Louisville Metro in 2018, there were 457 pedestrian-involved collisions which resulted in 21 fatalities according to LMPD;

WHEREAS as of April 20, 2019, there were 6 pedestrian fatalities, compared with 5 on the same date the previous year;

WHEREAS, Louisville Metro's pedestrian fatalities in 2016 and 2017 matched the national trend with increases to 25 and 30 pedestrian fatalities, respectively;

WHEREAS, pedestrian fatalities account for 25% of all roadway fatalities in Jefferson County, KY (Louisville Metro) according to Metro Public Works;

WHEREAS, in Louisville Metro over the last 5 year period, 72% (82 of 114) of pedestrian fatalities have occurred on arterial classified roads (Metro Public Works) and 26.5% of all motor vehicle collisions occurred at intersections in Kentucky in 2017, according to Kentucky State Police;

WHEREAS, the American Journal of Public Health advises that separation of pedestrians from vehicles by time and space reduces the exposure of pedestrians to potential harms; and preventing pedestrians and motor vehicles from being in close proximity to each other is a common-sense approach to improving the safety of all involved;

WHEREAS, Louisville Metro has implemented several programs to address pedestrian safety including the Louisville Pedestrian Master Plan and Look Alive Louisville;

WHEREAS, Louisville Metro has prioritized the redesign of many arterials with an emphasis on public safety including the New Dixie Highway Project, Broadway Master Plan and several road “diets;”

WHEREAS, *the 2018 Bardstown Road Corridor Safety Study found that between 2013-2018 there were 49 pedestrians struck by vehicles along the corridor, which is an average of 9 pedestrians struck per year which amounted to 27.54 strikes per Hundred Million Vehicle Miles Traveled (“HMVMT”) compared with the lower statewide average of 5.1 HMVMT[.]”*

WHEREAS, Lexington-Fayette County passed an ordinance with similar pedestrian prohibitions in June 2017; in December 2018, Lexington Police Department reported a 15% decrease in pedestrian-involved collisions from the previous year;

WHEREAS, Louisville/Jefferson County Metro Council (“Louisville Metro Council”) seeks to promote the safe and expeditious flow of traffic at city intersections and decrease traffic hazards, accidents, and injuries related to pedestrians interacting with vehicles on high traffic public roadways;

WHEREAS, Louisville Metro Council creates a new section of Louisville Metro Code of Ordinances (“LMCO”), chapter 71, to address pedestrian interactions and close encounters with motor vehicles on high traffic public roadways;

WHEREAS, Louisville Metro Council identified the most trafficked roadways in Jefferson County and have designated them as arterial roadway for the purpose of the new Pedestrian and Traffic Safety subsection;

WHEREAS, persons approaching vehicles at intersections and standing on arterial roadways create traffic distractions and hazards to pedestrians and vehicles;

WHEREAS, Louisville Metro Council relocates the section governing mopeds to LMCO, Chapter 74 regarding bicycles, motorcycles, and all-terrain vehicles as a more applicable chapter for laws governing mopeds;

WHEREAS, *the Sixth Circuit of the U.S. Court of Appeals previously upheld KRS § 189.570(21) as a content neutral law “[b]ecause the statute prohibits all parties from distributing literature in the roadways, and because it permits all parties to solicit contributions in the roadways if the precautions prescribed by subsection 21 are*

undertaken, the statute applies evenhandedly to all those who wish to distribute written materials or solicit funds[.]” Ater v. Armstrong, 961 F.2d 1224 (6th Cir. 1992):

WHEREAS, Kentucky law allows pedestrians to solicit contributions in the roadway only if the provisions of Kentucky Revised Statute (“KRS”) § 189.570(21) are satisfied, which include “the presence of a traffic control device or warning signal or an emergency vehicle or public safety vehicle as defined in KRS 189.910 making use of the flashing, rotating or oscillating red, blue, or yellow lights on such devices or vehicles[;]” and

WHEREAS, with the enactment of a new section of LMCO and the enforcement KRS § 189.570(21), Louisville Metro Government repeals LMCO Chapter 117.

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

SECTION I: LMCO § 117 is hereby repealed with an exception of section 11(O), which is hereby moved to subsection 71.10(D) and amended as noted in this Ordinance.

SECTION II: LMCO § 71.25, LMCO § 71.26, and the definition of moped are hereby moved to Chapter 74 with the penalty section added to 74.99(C).

SECTION III: The following definitions in LMCO 71.01 are added and amended:

§ 71.01 DEFINITIONS.

Arterial roadway means the class of roads in Jefferson County that serve major traffic movements (high-speed, high volume) for travel between major points, which include any roadway listed in subsection (E) of this section.

Gore means a longitudinal point where a physical barrier or the lack of a paved surface inhibits road users from crossing from a ramp or channelized turn lane or channelized entering lane to the adjacent through lane(s) or vice versa.

Median means the area between two roadways of a divided highway measured from edge of traveled way to edge of traveled way, which includes median refuge island. The median excludes turn lanes and that portion of a median that contains a sidewalk beyond the marked crosswalk or other legal pedestrian crossing and which is not part of a median refuge island. The median width might be different between intersections, interchanges, and at opposite approaches of the same intersection.

Median Refuge Island means protected spaces placed in the center of an arterial roadway to facilitate pedestrian crossings which may include a portion for walking or standing on such island while awaiting safe and legal crossing of such roadway.

~~Moped. A motorized bicycle whose frame design may include one or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two brake horsepower, a cylinder capacity not exceeding 50 cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than 30 miles per hour.~~

Pedestrian means any person afoot or in a wheelchair.

SECTION IV: LMCO 71.10 is hereby created as follows:

LMCO 71.10 PROHIBITED PEDESTRIAN ACTIVITIES ON ARTERIAL ROADWAYS, MEDIANS, AND GORES.

(A) Pedestrians are prohibited from crossing an arterial roadway at any place except in a crosswalk. If there is no crosswalk on an arterial roadway, a pedestrian may cross an arterial roadway only at an intersection in which a traffic-control signal or other device is in place. If neither is present, a person may cross an arterial roadway only at an intersection.

(B) Pedestrians are prohibited from standing or being on a median or gore of an arterial roadway unless he or she is in the process of legally crossing an arterial roadway.

(C) No person, other than an occupant of a vehicle, shall be on an arterial roadway, unless otherwise provided by law. Pedestrians, while upon on an arterial roadway, are prohibited from approaching a vehicle operating on ~~an~~ such arterial roadway except for the actions contained in subsection (D).

(D) Sections (B) and (C) do not apply to:

(1) Any person in a legally parked vehicle at the curb or shoulder;

(2) Any person engaged in law enforcement or rescue activities or with an emergency repair or maintenance of a vehicle;

(3) Any person entering a stopped vehicle as an invited passenger where it is lawful to do so, including accessing taxicabs or public transportation;

~~(4) Any person invited by the occupant of a vehicle to interact with the occupant, provided the vehicle is stopped and not obstructing traffic, the vehicle is directly adjacent to the sidewalk and no intervening space exists between the vehicle and sidewalk, and the pedestrian remains at all times on the adjacent sidewalk;~~

(45) Any person working on an arterial roadway with a valid permit; or

(56) Any person in compliance with the provisions of KRS § 189.570(21)

and the following pedestrian safety measures:

(i) Be at least 18 years of age;

(ii) Persons must wear ~~bright orange or yellow safety~~ vests as prescribed by the Manual on Uniform Traffic Control Devices;

(iii) Persons must place at least four orange cones per lane utilized with a minimum height of at least 28 inches and placed at a minimum of 15 feet apart from the closest orange cone;

(iv) Persons must withdraw from an intersection to a place of safety on a median or on the side of an arterial roadway before the light turns green or as soon as safely possible;

(v) Persons must limit solicitation activity to one person for each lane of traffic;

(vi) Persons must refrain from yelling at or otherwise distracting motorists, and from touching any vehicle; and

(vii) Persons shall not conduct any solicitation activity before sunrise or after sunset, as published daily ~~in the Courier-Journal~~ by the National Weather Service, or in inclement weather during which wipers or lights are necessary for safe vehicular travel, or in the judgment of any law enforcement officer conducting solicitation activity would constitute a hazard to individuals conducting solicitation activity or to motorists.

(E) The following streets are designated arterial roadways for the purposes of

this section:

N	15TH ST		BINGHAM WAY
S	15TH ST		BLANKENBAKER PKY
N	16TH ST		BLUE LICK RD
S	16TH ST		BOWLING BLVD
S	17TH ST	E	BRANDEIS AVE
N	1ST ST		BRECKENRIDGE LN
S	1ST ST	E	BROADWAY
N	21ST ST	W	BROADWAY
N	22ND ST	S	BROOK ST
S	22ND ST		BROWNS LN
N	22ND ST CONNECTOR		BROWNSBORO RD
N	26TH ST		BUECHEL BANK RD
S	26TH ST		BUECHEL BYP
S	2ND ST	E	BURNETT
N	3RD ST	S	CAMPBELL ST
S	3RD ST		CANE RUN RD
	3RD STREET RD		CANNONS LN
S	4TH ST	E	CARDINAL BLVD
S	5TH ST	W	CARDINAL BLVD
S	6TH ST		CASTLEWOOD AVE
N	7TH ST		CENTRAL AVE
S	7TH ST		CHENOWETH LN
	7TH STREET RD		CHEROKEE PKY
N	8TH ST	W	CHESTNUT ST
S	9TH ST		CHESTNUT STREET
S	9TH STREET RAMP		CONNECTOR
	ALGONQUIN PKY		CHESTNUT STREET
	BALLARDSVILLE RD	E	CONNECTOR
	BANK ST		CLARK MEMORIAL BRG
	BARDSTOWN RD		COLORADO AVE
	BARRET AVE		CRITTENDEN DR
	BAXTER AVE		CRUMS LN
	BELLS LN		DENNY CRUM OVERPASS
	BERNHEIM LN		DIXIE HWY
	BERRY BLVD		DR W J HODGE ST
	BEULAH CHURCH RD		DUMESNIL ST
	BILLTOWN RD		DUTCHMANS LN
			DUTCHMANS PKY
			EASTERN PKY

N	ENGLISH STATION RD		LYNN ST
	FEGENBUSH LN	E	MAIN ST
	FERN VALLEY RD	W	MAIN ST
	FINZER ST	E	MANSLICK RD
S	FLOYD ST		MANSLICK RD
	FRANKFORT AVE	E	MARKET ST
	GAGEL AVE	W	MARKET ST
	GLENBROOK RD		MARY ST
	GOSS AVE		MCMAHAN BLVD
	GRADE LN		MELLWOOD AVE
E	GRAY ST		MILLERS LN
	GREENBELT HWY	E	MUHAMMAD ALI BLVD
	GREENBELT RAMP	W	MUHAMMAD ALI BLVD
	GREENWOOD RD		NATIONAL TPKE
	GRINSTEAD DR		NEW CUT RD
	HERR LN		NEW LA GRANGE RD
	HIKES LN		NEWBURG RD
E	HILL ST		NORTHWESTERN PKY
W	HILL ST	E	OAK ST
	HILLCREST AVE	W	OAK ST
N	HUBBARDS LN		OAKDALE AVE
S	HUBBARDS LN		OLD HENRY RD
N	HURSTBOURNE PKY	W	ORMSBY AVE
S	HURSTBOURNE PKY		OUTER LOOP
	I 265 NORTH		PALATKA RD
E	INDIAN TRL		PARK BLVD
	INDUSTRY RD		PARK RD
S	JACKSON ST		PHILLIPS LN
	JEFFERSON BLVD		PLANTSIDE DR
E	JEFFERSON ST		POPLAR LEVEL RD
W	JEFFERSON ST		PORTLAND AVE
	JOHNSONTOWN RD		PRESTON HWY
W	KENWOOD WAY	N	PRESTON ST
	KY 841	S	PRESTON ST
	KY-841 RAMP		PRODUCE RD
	LA GRANGE RD		RIVER PARK DR
	LEES LN		RIVER RD
	LEXINGTON RD	W	RIVER RD
E	LIBERTY ST		ROCKFORD LN
W	LIBERTY ST		ROWAN ST
	LIME KILN LN		ROY WILKINS AVE
	LOGAN ST		RUCKRIEGEL PKY
	LYNDON LN	S	SHELBY ST

	SHELBYVILLE RD		U S HIGHWAY 42
	SHEPHERDSVILLE RD		UNIVERSITY BLVD
	SOUTHERN PKY		VALLEY STATION RD
	SOUTHSIDE DR		VIRGINIA AVE
	SOUTHWESTERN PKY	W	WASHINGTON ST
	ST ANDREWS CHURCH RD	N	WATTERSON TRL
E	ST CATHERINE ST		WATTERSON TRL
W	ST CATHERINE ST		WESTPORT RD
	STILZ AVE		WHIPPS MILL RD
	STONESTREET RD		WILLOW AVE
	STORY AVE		WILSON AVE
	TAYLOR BLVD		WINKLER AVE
	TAYLORSVILLE RD		WINTER AVE
W	TENNY AVE	E	WITHERSPOON ST
	TERRY RD	E	WOODLAWN AVE
	TRADE PORT DR	W	WOODLAWN AVE
	TREVILIAN WAY		ZORN AVE

This section also applies to the first two hundred (200) feet of any roadway that intersects with an arterial roadway, as measured from the point where the roadway and the arterial roadway intersect.

SECTION V: LMCO § 71.98 on severability is hereby amended as follows:

~~If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.~~

Each section and provision of this chapter is hereby declared to be independent sections and provisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of said chapter, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or provisions and the application of such sections or provisions to any person or circumstances other than those to which it is held invalid, shall not be

affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

SECTION VI: LMCO § 71.99 on penalties is hereby amended as follows:

(A) Any person who violates §§ 71.02 through 71.10, ~~71.03(A)(5), 71.25, or 71.26~~ of this chapter shall be fined not less than \$25 nor more than \$400 250.

~~(B) Any person, owner, or operator of any vehicle who violates any of the provisions of §§ 71.04 or 71.05 of this chapter shall be fined not less than \$25 nor more than \$250 for each offense.~~


~~(C)~~(B) Any person who violates §§ 71.86 or 71.87 of this chapter, or who violates any other ordinance of the Louisville/Jefferson County Metro Government or any statute of the state restricting speeding, shall be fined as provided by KRS 189.394.

~~(D)~~(C) Any person who violates § 71.85 of this chapter shall be fined not less than \$20 nor more than \$100.


SECTION VII: This Ordinance shall take effect upon its passage and approval, with a delay in issuing citations to allow for public education efforts by the Louisville Metro Police Department.



H. Stephen Ott
Metro Council Clerk



David James
President of the Council



Greg Fischer
Mayor

8/26/19

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

LOUISVILLE METRO COUNCIL
READ AND PASSED
August 8, 2019

BY: _____



O-190-19 -Pedestrian Safety LMCO 71 and Repeal 117 db-sjm (amend by sub)(as amended)Ver 3 (8-8-19).docx