

ORDINANCE NO. _____, 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	S	1ST ST
S	15TH ST	N	21ST ST
N	16TH ST	N	22ND ST
S	16TH ST	S	22ND ST
S	17TH ST	N	22ND ST CONNECTOR
N	1ST ST	N	26TH ST
		S	26TH ST
		S	2ND ST

N	3RD ST		CENTRAL AVE
S	3RD ST		CHENOWETH LN
	3RD STREET RD		CHEROKEE PKY
S	4TH ST	W	CHESTNUT ST
S	5TH ST		CHESTNUT STREET
S	6TH ST		CONNECTOR
N	7TH ST		CHESTNUT STREET
S	7TH ST	E	CONNECTOR
	7TH STREET RD		CLARK MEMORIAL BRG
N	8TH ST		COLORADO AVE
S	9TH ST		CRITTENDEN DR
S	9TH STREET RAMP		CRUMS LN
	ALGONQUIN PKY		DENNY CRUM OVERPASS
	BALLARDSVILLE RD		DIXIE HWY
	BANK ST		DR W J HODGE ST
	BARDSTOWN RD		DUMESNIL ST
	BARRET AVE		DUTCHMANS LN
	BAXTER AVE		DUTCHMANS PKY
	BELLS LN		EASTERN PKY
	BERNHEIM LN	N	ENGLISH STATION RD
	BERRY BLVD		FEGENBUSH LN
	BEULAH CHURCH RD		FERN VALLEY RD
	BILLTOWN RD		FINZER ST
	BINGHAM WAY	S	FLOYD ST
	BLANKENBAKER PKY		FRANKFORT AVE
	BLUE LICK RD		GAGEL AVE
	BOWLING BLVD		GLENBROOK RD
E	BRANDEIS AVE		GOSS AVE
	BRECKENRIDGE LN		GRADE LN
E	BROADWAY	E	GRAY ST
W	BROADWAY		GREENBELT HWY
S	BROOK ST		GREENBELT RAMP
	BROWNS LN		GREENWOOD RD
	BROWNSBORO RD		GRINSTEAD DR
	BUECHEL BANK RD		HERR LN
	BUECHEL BYP		HIKES LN
E	BURNETT	E	HILL ST
S	CAMPBELL ST	W	HILL ST
	CANE RUN RD		HILLCREST AVE
	CANNONS LN	N	HUBBARDS LN
E	CARDINAL BLVD	S	HUBBARDS LN
W	CARDINAL BLVD	N	HURSTBOURNE PKY
	CASTLEWOOD AVE	S	HURSTBOURNE PKY

	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
	LYNN ST		SHELBYVILLE RD
E	MAIN ST		SHEPHERDSVILLE RD
W	MAIN ST		SOUTHERN PKY
E	MANSLICK RD		SOUTHSIDE DR
	MANSLICK RD		SOUTHWESTERN PKY
E	MARKET ST		ST ANDREWS CHURCH RD
W	MARKET ST	E	ST CATHERINE ST
	MARY ST	W	ST CATHERINE ST
	MCMAHAN BLVD		STILZ AVE
	MELLWOOD AVE		STONESTREET RD
	MILLERS LN		STORY AVE
E	MUHAMMAD ALI BLVD		TAYLOR BLVD
W	MUHAMMAD ALI BLVD		TAYLORSVILLE RD
	NATIONAL TPKE	W	TENNY AVE
	NEW CUT RD		TERRY RD
	NEW LA GRANGE RD		TRADE PORT DR
	NEWBURG RD		TREVILIAN WAY
	NORTHWESTERN PKY		U S HIGHWAY 42
E	OAK ST		UNIVERSITY BLVD
W	OAK ST		VALLEY STATION RD
	OAKDALE AVE		VIRGINIA AVE
	OLD HENRY RD	W	WASHINGTON ST
W	ORMSBY AVE	N	WATTERSON TRL
	OUTER LOOP		WATTERSON TRL

WESTPORT RD
WHIPPS MILL RD
WILLOW AVE
WILSON AVE
WINKLER AVE

WINTER AVE
E WITHERSPOON ST
E WOODLAWN AVE
W WOODLAWN AVE
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 \$100 250.

~~(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

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____

