

ORDINANCE NO. _____, SERIES 2022

AN ORDINANCE AMENDING THE LOUISVILLE/JEFFERSON COUNTY METRO CODE OF ORDINANCES AND ESTABLISHING THE GREATER LOUISVILLE LODGING MANAGEMENT DISTRICT. (AS AMENDED)

**SPONSORED BY: COUNCIL PRESIDENT DAVID JAMES AND
COUNCIL MEMBER KEVIN KRAMER**

WHEREAS, KRS 91.752 authorizes the Louisville/Jefferson County Metro Government to establish within Louisville Metro one or more management districts for the purposes of providing and financing economic improvements that special benefit privately-owned property within the management district; and

WHEREAS, on October 20, 2022, the Louisville Hotel Association presented to the Mayor a petition requiring the formation of such a management district in Louisville Metro, for the benefit of lodging properties within Louisville Metro with fifty-one rooms or more, to be known as the Greater Louisville Lodging Management District; and

WHEREAS, the petition was signed by 54 property owners of benefitted real property within the proposed district, who represent 46.56% of the owners of benefitted real property within the proposed district and who together own real property in the proposed district equal to 64.78% of the total assessed value of all benefitted real property within the proposed district; and

WHEREAS, the Mayor has determined that the petition satisfies all requirements of KRS 91.754 and has therefore forwarded it to the Legislative Council of the Louisville/Jefferson County Metro Government (the "Council") for the adoption of an ordinance establishing the management district as requested by said petition; and

WHEREAS, the management district is a public-private partnership established for the purpose of providing and financing economic improvements which will directly benefit

private properties as well as serving the public purpose of promoting economic growth through increased tourism; and

WHEREAS, the Council, having considered the petition received by it and having conducted a public hearing on December 6, 2022 regarding the petition, has determined that the establishment of a management district as requested would be advantageous to Louisville Metro.

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

SECTION I: Title XV of the Louisville/Jefferson County Metro Code of Ordinances (“LMCO”) is hereby amended by creating a new chapter to read as follows:

CHAPTER 167: GREATER LOUISVILLE LODGING MANAGEMENT DISTRICT.

GENERAL PROVISIONS

§ 167.01 DISTRICT ESTABLISHED; BOARD OF DIRECTORS.

(A) There is established pursuant to KRS §§ 91.750 through .762, a management district to be known as the Greater Louisville Lodging Management District (hereinafter referred to as the “District”) for the purpose of providing and financing economic improvements that specially benefit certain designated property, lodging properties within Louisville Metro with fifty-one rooms or more, within the District. The boundaries of the District are designated by the map in attachment A which is incorporated by reference thereto and made a part of this chapter as if set out fully herein.

(B) The District shall constitute a body corporate, with the power to sue and be sued and to contract and be contracted with. The affairs of the District shall be managed and controlled by a Board of Directors composed of not more than 15 members, who shall be appointed for three-year terms, except as otherwise provided for the initiation

appointees, and who shall be eligible for reappointment to one additional term. At least two-thirds (66.7%) of the total number of Board members shall be property owners and/or representatives of property owners within the District. The remaining members of the Board, excluding the ex officio members, may also be property owners or representatives of property owners within the District and/or may include tenants within the District. Members of the Board of Directors shall be appointed as follows:

(1) The Executive Committee of the Board shall nominate individuals for membership on the Board and submit such names to the Mayor no less than sixty (60) days prior to the end of each calendar year. The Mayor, with the approval of the Council, shall appoint the members of the Board. Appointments shall include at least the following:

(a) Four (4) owners or their representatives of assessed lodging properties within the District, with 150 rooms or more;

(b) Four (4) owners or their representatives of assessed lodging properties within the District, with less than 150 rooms;

(c) Two (2) appointees by the President/Chair of the Louisville Hotel Association; and

(d) One (1) board member of Louisville Tourism, who must be an owner or representative of an assessed lodging property within the District.

(2) Voting ex officio members of the Board shall be as follows:

(a) The Mayor~~The Chief of Louisville Forward, or that agency's successor, or his or her designee; and~~

(b) A member of the Metro Council, as appointed by the Metro Council President~~The Chief Financial Officer of Louisville Metro, or his or her designee.~~

(3) Non-voting ex officio members of the Board shall be as follows:

(a) The Chief Financial Officer of Louisville Tourism, or that agency's successor, or his or her designee; and

(b) A board member or employee of Louisville Tourism whose role in the community is directly related to the purpose of the Board.

(4) All members appointed to the Board of Directors, other than non-voting ex-officio members, shall have the right to vote.

(C) The initial Board of Directors shall be comprised of one-third of such members serving a one-year term, one-third of such members servicing a two-year term, and one-third of such members serving a three-year term.

(D) Any member of the Board of Directors appointed by the Mayor may be removed by the Mayor for cause. Any member of the Board of Directors may be removed by the Mayor for violation of the rules, regulations or operating procedures adopted by the Board of Directors if the removal is recommended by a majority of the members of the Board of Directors. A vacancy shall be filled in the same manner as the original appointment for the unexpired term.

§ 167.02 POWERS OF THE BOARD.

(A) The Board of Directors of the District shall have the right to transact business on behalf of the District immediately after the appointment of its members.

(B) The Board of Directors shall have full powers to name its organization and to make bylaws and rules for the regulation and management of the affairs of the District not inconsistent with the provisions of this chapter.

(C) The Board of Directors shall have all powers necessary and proper to conduct the affairs of the District not inconsistent with the provisions of this chapter, including but not limited to:

- (1) Transacting business on behalf of the District;
- (2) Incurring, in the aggregate, short term and long-term debt not to exceed \$500,000;
- (3) Holding funds in the name of the District;
- (4) Receiving grants, donations and gifts in furtherance of the economic improvement objectives of the District in addition to funds from assessments;
- (5) Preparing annually an Economic Improvement Plan and Budget;
- (6) Implementing the Economic Improvement Plan;
- (7) Making policy for the operation of the District; and
- (8) Managing the fiscal affairs of the District.

(D) The Board of Directors may contract with any person or corporation determined to have the needed expertise to manage and administer the day-to-day operations of the affairs of the District.

(E) The Board of Directors may undertake the following economic improvements within the District:

- (1) The marketing and promotion of Louisville Metro as a preferred destination with an emphasis on increasing overnight visitation at the benefited properties in the District; and
- (2) Any other economic improvement activity that specially benefits property; and

(3) Shall consider investments in tourism infrastructure.

(F) The District may operate on a calendar or fiscal year basis. No later than two months prior to the beginning of each year, the Board of Directors shall prepare and submit to the Council for its approval an annual budget for the District. The Board of Directors shall also deliver a copy of the annual economic improvement plan to the Council. The economic improvement plan shall describe the current and projected economic improvements to be undertaken in the year. The annual budget shall be presented in such form as shall be required by the Metro Government's Office of Management and Budget or that Office's successor. The Board of Directors may not take any action or expend any money pursuant to the proposed budget until such time as it is approved by the Council. If the Council has not approved the proposed budget as of the first day of the new year, the budget of the previous year shall have full force and effect as if readopted until such time as a budget is approved.

(G) Prior to adopting the budget, the Council shall hold a public hearing for the purpose of soliciting comments upon the proposed budget. Upon approval of the annual budget by the Council, then the Board of Directors shall publish both it and the economic improvement plan pursuant to KRS Chapter 424 and shall mail by first class mail to each owner of benefited property a description of the economic improvement plan, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio that the cost to each property owner bears to the total cost of the economic improvements.

(H) The Board shall have an affirmative action plan consistent with the LMCO 37.65 through 37.71 for the hiring of the consultants or employees. The Board shall not discriminate on the basis of race, sex, sexual orientation and gender identity, marital

status, religion, age 40 and over, color, national origin, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, in any of its operations and shall include such prohibition in all of its contracts.

(I) Members of the Board of Directors shall adhere to the ethics rules. Violation of any provision thereof shall be cause for removal by the Mayor pursuant to LMCO § 167.01.

§ 167.03 ASSESSMENTS.

(A) The Board of Directors of the District shall provide in the annual budget for the imposition of a rate of assessment on all benefited properties within the District. Such rate shall be sufficient to provide sufficient revenues to finance the current and projected economic improvements to be undertaken pursuant to the annual economic improvement plan.

(B) Assessments for the current and projected economic improvements shall be ratably apportioned among the benefited properties within the District based upon a benefits-received basis. The benefits received shall be calculated based on gross short-term room rental revenue, which amount of revenue shall be calculated in the same manner as rental revenues subject to the state transient room tax. The District may contract with the owners of any property exempt from property taxation or assessment for the provision of District services to such properties.

(C) The Board of Directors may enter into an agreement with the Metro Government for the collection of the assessments or otherwise provide for the collection of such assessments. The penalties and interest applicable to delinquent taxes shall be applied to delinquent assessments.

(D) Any owner of a benefited property may contest the assessment. All contests shall be in writing and shall be filed with the Board of Directors no later than 30 days after receiving notice of the assessment.

(E) A contesting property owner shall have the right to appear before the Board of Directors and present evidence. A record shall be made of the proceedings and the Board of Directors shall render a written decision. The decision of the Board of Directors may be appealed to the Circuit Court.

(F) The amount of any outstanding assessment on any property, and accrued interest and charges, shall constitute a lien on the property. The liens shall take precedence over all other liens, whether created prior to or subsequent to the assessment, except a lien for state and Metro Government taxes and prior improvement assessments, and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the Council shall exempt any property from the lien for economic improvement assessments, or from payment thereof, or from the penalties or interest thereon, as herein provided.

(G) The Board of Directors is authorized, but is not required, to impose an annual rate of assessment which shall not exceed one and one-half percent (1.5%) of gross short-term room rental revenue, adjusted by the Board of Directors, in its discretion, either each year by the change in the Consumer Price Index (All Urban Consumers) or in the manner set forth in the final sentence of this subsection (G). In determining the rate of assessment to be established for any given year or years, the Board of Directors shall take into consideration: the current operations of the District and the revenue needed

(taking into consideration the costs of operation for the immediately preceding and current year and the reasonably projected cumulative increase or decrease in such costs for the forthcoming fiscal year) to maintain such existing operations; and the change in the Consumer Price Index (All Urban Consumers) between the effective date of the most recent adjustment in the rate of assessment and the date on which the new proposed rate of assessment will become effective. In the event that the Board of Directors has not imposed, for any fiscal year, the maximum annual rate of assessment permitted hereunder (which shall include the Consumer Price Index adjustment mentioned in the first sentence of this subsection), then any Consumer Price Index adjustment for any forthcoming fiscal year shall be limited to the difference between the actual rate of assessment then in effect adjusted for the cumulative change in the Consumer Price Index (All Urban Consumers) for the current year and the immediately preceding year and the actual rate of assessment then in effect.

(H) The Board of Directors shall, within 90 days following the end of the fiscal year, contract with a certified public accountant to prepare an audit of all funds controlled by the Board of Directors. A copy of the audit report shall be furnished to the Council and the Office of Management and Budget.

(I) The Board of Directors shall prepare an annual report to the owners of benefited properties within the District evaluating the District's effectiveness and describing its accomplishments during the preceding fiscal year. The report shall be sent to the owner of each benefited property at such time that the annual economic improvement plan and budget is sent pursuant to LMCO §167.02. A copy shall also be provided to the Council.

§ 167.04 TERMINATION OF DISTRICT.

(A) The District shall continue in existence until it is terminated as provided for herein.

(B) The District shall be dissolved as provided in KRS § 91.762(2).

GUIDELINES FOR BOARD OF DIRECTORS

§ 167.20 CONTRACTS.

All contracts to be awarded by the Board of Directors should include a complete description of the services to be provided and duration, method of compensation, records to be maintained and submitted, and hold harmless agreements and limits of liability insurance requirements.

§ 167.21 MARKETING SERVICES.

A strong sales, marketing and promotions program should be developed for the District. It should focus on increasing overnight visitation as well as increasing demand for travel to Louisville Metro.

§ 167.22 MANAGEMENT AND ADMINISTRATION.

The Board shall provide for the District's day-to-day management and administration as it deems appropriate. Expenditures for management and administration should not exceed 6.25% of the District budget. Management and administrative support services should include:

(A) Procurement of security, maintenance and marketing services from vendors, administration of related contracts and supervision related to contract compliance and quality assurance;

(B) Training activities to support services delivery;

(C) Annual development of an Economic Improvement Plan as required by state statute and the above referenced ordinance, including evaluation of program effectiveness and monitoring the level of services provided to the District;

(D) Provision of administrative support to the Board of Directors;

(E) Maintenance of all financial and administrative records, and yearly audit of expenses and revenues;

(F) Provision of liability insurance as needed to cover all operations; and

(G) Provision of a conveniently located, fully equipped office with space for District meetings, dedicated phone service, including answering and facsimile capabilities, and office supplies, postage and incidentals.

§ 167.23 REPORT.

The Board of Directors is directed to submit a report to the Mayor and the Council after the end of each year of the District's operation, detailing how it has addressed the directives and principles enumerated in §§ 167.20 through 167.22. Such report shall be separate from and in addition to any other report required by the above referenced provisions establishing the District.

§ 167.24 ADVISORY COUNCIL.

The Board of Directors may establish, pursuant to the bylaws adopted for the District, an Advisory Council to the Board of Directors. The membership of the Advisory Council should encompass a broad range of benefited property owners and tenants and should also include persons with technical knowledge of aspects of sales, marketing and promotional services or other economic improvements provided by the District.

§ 167.98 SEVERABILITY.

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.

SECTION II: This Ordinance shall take effect upon 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: _____

O-324-22 - Establishing a the Greater Louisville Lodging Management District.docx (as amended) (If)