

ORDINANCE NO. _____, SERIES 2022

AN ORDINANCE AMENDING SECTIONS 21.01, 21.03, AND 21.06 OF THE LOUISVILLE METRO CODE OF ORDINANCES (“LMCO”) RELATING TO FINANCIAL DISCLOSURES BY METRO OFFICERS AND CANDIDATES FOR ELECTED METRO OFFICES.

SPONSORED BY: COUNCIL MEMBER HOLLANDER AND PRESIDENT JAMES

WHEREAS, an examination of ethics ordinances from around the state revealed that the current financial disclosure requirements under LMCO are not as robust as those in most Kentucky cities and counties;

WHEREAS, Metro’s financial disclosure requirements do not mention the requirement that candidates for elective office make disclosures, despite the requirement of KRS 65.003(1)(a) that candidates for local government elective offices shall comply with the annual financial disclosure statement filing requirements contained in the local government’s code of ethics; and

WHEREAS, Metro Council is committed to the operation of Metro government in a manner that manifests the highest ethical standards among its officers.

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

SECTION I: LMCO § 21.01 is hereby amended as follows:

As used in this subchapter, the following terms shall have their given definition.

APPOINTING AUTHORITY. The Metro Mayor, or any of his or her designated subordinates, who appoint the non-elected Metro Officers covered under this subchapter.

BUSINESS ORGANIZATION. Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding

company, joint stock company, receivership, trust, professional service corporation, or any other legal entity through which business is conducted for profit.

CHILD. An individual of any age who is or was the biological, adoptive, step or foster child of another person, or a person of any age who is or was a legal ward of another person when that individual was a minor or required a legal guardian.

COMMITTED RELATIONSHIP. A relationship between domestic partners sharing household and/or income and expenses for a significant share of each other's common welfare, familial obligations, and benefit including different- and same-gender relationships.

CONFLICT OF INTEREST. Any action, decision or recommendation by a Metro Officer acting in his or her capacity, which would benefit the financial or private interest of a Metro Officer or any family member, unless the benefit arises out of circumstances described in § 21.02(C) of this chapter. The term does not include an action having a remote impact or which affects to the same degree a group consisting of the general public or a subgroup consisting of an industry, occupation or other group which includes financial or private interests of a Metro Officer or a family member.

DOMESTIC PARTNER. An adult in a committed relationship with another adult, which includes both different- and same-gender relationships.

ELECTIONEERING. Activity intended to solicit votes or persuade voters to vote for a particular candidate or party.

ENTITY. A domestic or foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two or more persons having a joint or common economic interest.

FAMILY MEMBER. An individual with any of the following relationships to the Metro Officer: spouse, domestic partner, parent, stepparent, child, brother, stepbrother, sister, stepsister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

- ~~1. Spouse or domestic partner;~~
- ~~2. The parents of the Metro Officer or a spouse or domestic partner;~~
- ~~3. Sons and daughters, and their spouses or domestic partners;~~
- ~~4. Immediate relatives and their spouses or domestic partners; and~~
- ~~5. Any individual related by kinship, or whose close association with the Metro Officer is the equivalent of a familial relationship, including but not limited to individuals: living in the Metro Officer's household, or is a person claimed by a Metro Officer or a Metro Officer's spouse or domestic partner as a dependent for tax purposes.~~

FINANCIAL GAIN. An ascertainable increase in the net worth or income of a Metro Officer, family member or a related entity, which does not arise from a primary or proximate action by a Metro Officer or a family member of a Metro Officer or where either no or only a *de minimis* benefit accrues to a Metro Officer or a family member of a Metro Officer.

FINANCIAL INTEREST. A right, title, legal or equitable share in an asset or transaction which will result in an increase or decrease in the income or net worth of a Metro Officer or family member of a Metro Officer, which does not arise from a primary or proximate action by a Metro Officer or a family member of a Metro Officer or where either no or only a *de minimis* benefit accrues to a Metro Officer or a family member of a Metro Officer.

IMMEDIATE FAMILY MEMBER. An individual with any of the following relationships to the Metro Officer: spouse, domestic partner, a child who is not emancipated and who resides in the officer's or employee's household, or a person claimed by the officer or employee, or the officer's or employee's spouse or domestic partner, as a dependent for tax purposes .

~~**IMMEDIATE RELATIVE.** Any individual related by kinship, which includes, but is not limited to: grandparents, great-grandparents, brothers, sisters, aunts, uncles, nieces, nephews, grandchildren, parents of grandchildren and spouses or domestic partners thereof.~~

~~**KINSHIP.** Relationship by blood, marriage, civil union, or adoption.~~

METRO OFFICER. For the purpose of this subchapter, the following persons shall be defined as a Metro Officer:

- (1) Any person elected or appointed to the office of:
 - (a) Metro Mayor;
 - (b) Metro Council member;
 - (c) County Attorney;
 - (d) Sheriff;
 - (e) County Clerk;
 - (f) Surveyor;
 - (g) Constable; or
 - (h) Coroner.
- (2) Any person appointed as:
 - (a) Deputy Mayor;

- (b) Cabinet Secretary;
- (c) Chief Deputy;
- (d) Chief Administrative Officer;
- (e) Chief of Operations;
- (f) Agency Director;
- (g) Any Housing Authority Officer;
- (h) Department Director for Metro Government;
- (i) A legislative assistant to a Metro Council member;
- (j) A Metro Council Caucus staff member and all staff members that report to either or both Caucuses of the Louisville Metro Council;
- (k) Any position as determined by a person identified in subsection (1) of this definition that has the authority to enter into contracts over \$10,000 in value or make purchases of goods or services over \$10,000 in value; or
- (l) Any person nominated or appointed by the Metro Mayor or the Metro Council to a Metro Agency who has regulatory authority or has independent authority to expend public funds.

PARENT. An individual who is or was the biological, adoptive, step or foster legal guardian of another person, or stood *in loco parentis*.

PRIVATE INTEREST. Employment, board membership, or participant in the management and/or operations of an entity by a Metro Officer or family member of a Metro Officer.

~~**SON OR DAUGHTER.** An individual who is or was the biological, adoptive, step or foster child of another person, or a person who is or was a legal ward of another person when that individual was a minor or required a legal guardian.~~

SPOUSE. An individual who is united in a matrimonial relationship with another individual as is legally recognized and solemnized under the law.

SECTION II: LMCO § 21.03 is hereby amended as follows:

(A) Metro Officers and candidates seeking to become elected Metro Officers shall be required to file with the Louisville/Jefferson County Metro Ethics Commission (the Ethics Commission) a financial disclosure statement on a form provided by the Ethics Commission and signed under oath by the filer. The financial disclosure statement shall include all of the following information:

- (1) Name of filer;
- (2) Current business address, business telephone number and home address of filer;
- (3) Title of filer's public office or elected office sought;
- (4) Occupations of filer and the filer's spouse or domestic partner;
- (5) Information that identifies each source of income of the filer and the filer's immediate family members exceeding five thousand dollars (\$5,000) during the preceding calendar year, and the nature of the income (e.g. salary, commission, dividends, retirement fund distribution, etc.);
- (6) The name and address of any business located within the state in which the filer or any member of the filer's immediate family had at any time during the preceding

calendar year an interest of \$10,000 at fair market value or 5% ownership interest or more;

(7) The name, address, and telephone number of each business organization doing business within the past three years or anticipated to engage in business with the Louisville/Jefferson County Metro Government, or any Metro Agency, or any Metro Officer, in which the filer or any ~~member~~ of the filer's family members has:

(a) An interest of \$10,000 at fair market value or 5% ownership interest or more;
or

(b) Received compensation in excess of \$5,000 during the preceding calendar year. If the interest is the ownership of publicly traded securities, or publicly traded securities are the source of income, the interest need not be reported unless the officer or family member owns 5% or more of the total value of such publicly traded securities;

(8) The location and zoning designation as commercial, residential, or rural, of all real property within Jefferson County, other than the filer's primary residence, in which the filer, or any member of the filer's immediate family, had an interest of \$10,000 or more during the preceding calendar year;

~~(9)(6)~~ The location and zoning designation as commercial, residential, or rural, of all real property within Jefferson County, other than the filer's primary residence, in which the filer or any ~~members~~ of the filer's family members had an interest of \$10,000 or more during the preceding calendar year and which is the subject of any condemnation proceeding, any regulatory or enforcement proceeding before the Metro Planning Commission, or any proceeding before any other administrative body or court of law

wherein the Louisville/Jefferson County Metro Government or any Metro Agency or Metro Officer is an interested party-;

(10) Each source by name and address of gifts or honoraria having an aggregate fair market value of two hundred dollars (\$200) or more from any single source, excluding gifts received from family members, received by the filer or any member of the filer's immediate family during the preceding calendar year; and

(11) The name and address of any substantial debtor or creditor owed more than ten thousand dollars (\$10,000) by the filer or the filer's immediate family, except debts arising from the purchase of a primary residence or the purchase of consumer goods which are bought or used primarily for personal or household purposes.

(B)(1) The financial disclosure statement required by subsection (A) of this section shall be filed annually with the Ethics Commission no later than April 30 of each year, provided that:

(a) A newly appointed Metro Officer shall file their initial statement no later than 21 days after the date of the appointment; and

(b) A candidate seeking to become an elected Metro Officer shall file their initial statement no later than 30 days after the date on which the person becomes a candidate for elected office, by filing or nomination, with initial statements for candidates in 2022 elections due no later than April 30, 2022.

(2) The Ethics Commission may grant a reasonable extension of time for filing a financial disclosure statement for good cause shown.

(3) In the event there is a material change regarding any information reported on a financial disclosure statement that has been filed with the Ethics Commission, the Metro

Officer or candidate shall, no later than 30 days after becoming aware of the material change, file an amended statement with the Ethics Commission.

(C)(1)(a) The Ethics Commission shall review all financial disclosure statements filed with it. The Ethics Commission shall notify by certified mail each person required to file a statement of financial disclosure who fails to file the statement by the due date, files an incomplete disclosure, or files a statement in a form other than that required by the Commission. The notice shall specify the type of failure or delinquency, establish a date by which the failure or deficiency shall be remedied, and shall advise the person of the penalties for violation.

(b) If the person fails to remedy the deficiency identified by the Ethics Commission under (a) of this subsection, after the Commission has given the alleged violator notice of the amount of the fine the Commission intends to impose and an opportunity has been afforded the alleged violator to appear before the Commission or otherwise offer evidence as he may choose in mitigation of the imposition of the fine, the Commission may civilly fine the violator an amount not to exceed \$25 per day, up to a maximum fine of \$500 pursuant to LMCO 21.99(A)(2). Any civil fine imposed by the Commission under this section may be recovered in a civil action in the nature of debt if the offender fails or refuses to pay the penalty within a prescribed period of time.

(2) If a member of the Ethics Commission or any other person believes a financial disclosure statement contains false information or intentionally omits required information, any investigation by the Ethics Commission shall require a written complaint and follow the hearing procedures of LMCO 21.06 and the penalties provided in LMCO 21.99.

~~—(B)(1) The financial disclosure statement shall be filed annually by Metro Officers no later than April 30 of each year. Newly appointed Metro Officers shall be required to file their initial statement no later than 21 days after the date of appointment. Any material change in the information required by subsections (A)(5) or (A)(6) such as to cause previously submitted information to no longer be accurate or complete, shall be reported in writing to the Ethics Commission within ten business days after the affected Metro Officer knows or reasonably should know of that circumstance.~~

~~—(2) The term "material change" under subsection (B)(1) shall include any gift, loan, gratuity, discount, favor, service or economic opportunity of significant value or having an aggregate value of \$25 or more which the Metro Officer believes in good faith to be exempt from the application of § 21.02(B).~~

~~(DG)~~ When any Metro Officer, or an Officer's family member ~~any member of his or her family~~, shall have any private interest or financial interest, directly or indirectly, in any contract or matter pending before or within his or her office, or any Metro Agency, the Metro Officer shall disclose such interest to the Ethics Commission, the governing body of the affected Metro Agency and, if the contract or matter requires formal action by the Metro Council, to the Metro Council.

~~(ED)~~ Any member of the Metro Council, or the County Attorney, as well as any Metro Officer who derives his or her authority from the Metro Council or from the County Attorney, or a family member of any such person's ~~family~~, who has a financial or private interest in any matter pending before the Metro Council shall disclose such financial or private interest on the records of the Metro Council and shall disqualify himself or herself from participating in any debate, vote, or proceeding whatsoever relating thereto,

including engaging in any communications with other Metro Council Members regarding said matter. Any matter pertaining to a Metro Officer's budget or the operation of such officer's office, agency or department, including a Metro Officer's salary, shall not be construed as a "private interest".

(F) Nothing in this section shall be construed to require any officer or employee to disclose any specific dollar amounts nor the names of individual clients or customers of businesses listed as sources of income.

(G) The Ethics Commission shall be the official custodian of the financial disclosure statement and shall have control over the maintenance of the financial disclosure statements. The financial disclosure statements shall be maintained by the Commission, or the administrative official designated by the Commission as the "custodian" of public documents, and shall be available for public inspection immediately upon filing via open records requests under KRS 61.870 et. seq.

SECTION III: LMCO § 21.06 is hereby amended in relevant part as follows:

(A) Written complaints against Metro Officers which allege violations of this chapter may be filed by any person with the Ethics Commission and must be filed within one year of the time of the occurrence which is the subject of the complaint, or within one year of the date the occurrence was discovered or should have been discovered in the exercise of reasonable care. No unsworn complaint shall be considered by the Ethics Commission. The Ethics Commission shall have no jurisdiction to consider a complaint against a person unless that person is employed as a Metro Officer.

(1) The complaint shall be submitted on a form provided by the Ethics Commission and shall contain the complaining party's name, address and contact information

including telephone number, and fax number or e-mail address, if the complaining party has such contact availability. The complaint shall be made under oath and signed by the complaining party before a person who is legally empowered to administer oaths. Except as provided in LMCO 21.03(C)(1) regarding fines imposed for a failure to file a completed financial disclosure statement, the Ethics Commission shall have no jurisdiction in the absence of a sworn complaint. The complaint form provided by the Ethics Commission shall contain a statement advising of the elements and penalties under Kentucky law for perjury and for false swearing.

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SECTION IV: 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: _____