ORDINANCE NO. _____, SERIES 2026

AN ORDINANCE ~~ENACTING A NEW CHAPTER OF TITLE XI~~ AMENDING CHAPTER 149 OF THE LOUISVILLE METRO CODE OF ORDINANCES ("LMCO") RELATING TO CRIMINAL ACTIVITY NUISANCES AND IN-PERSON SECURITY AT LATE-NIGHT BUSINESSES. (AMENDMENT BY SUBSTITUTION)

SPONSORED BY: COUNCIL MEMBER HAWKINS

WHEREAS, the Louisville Metro Council recognizes that late-night businesses open during overnight hours are at a higher risk for criminal activity, including theft, assault, and property damage; and

WHEREAS, Louisville Metro Government currently uses the Code Enforcement Board to address persistent illegal activity at local premises; and

WHEREAS, recent incidents at convenience stores, gas stations, and other late-night establishments have raised serious concerns regarding the safety of both employees and patrons; and

WHEREAS, the Metro Council is committed to promoting public safety by ensuring that businesses operating during late-night hours provide adequate security measures to deter criminal activity at persistent illegal activity properties; and

WHEREAS, requiring trained and licensed security personnel at persistent illegal activity properties during late-night hours will serve as both a preventative and responsive measure to violent or unlawful acts occurring on business premises; and

WHEREAS, the presence of visible security personnel can deter potential criminal activity and contribute to a safer environment for workers and customers alike; and

WHEREAS, the Louisville Metro Police Department has expended significant resources responding to calls for service at certain late-night businesses, demonstrating the need for proactive safety requirements; and

WHEREAS, the Metro Council finds that such measures are necessary and proper to protect the health, welfare, and safety of the residents and visitors of Louisville.

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

SECTION I: Section 149.02 of the LMCO is hereby amended as follows:

§ 149.02 DEFINITIONS

For the purposes of this chapter, unless the context clearly indicates or requires a different meaning.

CODE ENFORCEMENT. The Louisville Metro Department of Codes and Regulations.

CODE OFFICIAL/DIRECTOR. The Director of the Department of Codes and Regulations or any duly authorized representative who is charged with the administration and enforcement of this chapter.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

ENFORCEMENT ACTION:

(1) The physical arrest of an individual; or

(2) The issuance of a criminal or administrative citation or an official incident report for a violation of law; or

(3) A referral of charges by law enforcement to counsel or other appropriate authority for prosecution.

IMMINENT DANGER. A condition, which could cause serious or life-threatening injury or death at any time.

LATE NIGHT BUSINESS. Any business open to the public for any portion of the hours between 2:00 a.m. and 5:00 a.m.

LAW ENFORCEMENT OFFICERS. A member of a lawfully organized police unit or police force of Louisville Metro Government or a suburban city of Jefferson County, who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, and campus police officers, and code officers, employed by an agency located in Jefferson County, and code officers of Louisville Metro Government duly sworn to enforce the civil and criminal ordinances of Louisville Metro Government.

OWNER. A person, association, corporation, partnership, or other legal entity having a legal or equitable title in real property.

PERSISTENT ILLEGAL ACTIVITY PROPERTY. Any premises or property, excepting hotels/motels, wherein law enforcement officers on more than one occasion within a 12-month period, where each such offense listed below begins a new 12-month period, or any hotel or motel where law enforcement officers on at least five occasions in any 12-month period, where each such offense listed below begins a new 12-month period, have conducted an Enforcement Action for any of the following violations:

(1) Prostitution and/or human trafficking offenses under KRS Chapter 529;

(2) Sexual offenses under KRS Chapter 510 with the exception of KRS 510.150;

(3) Gambling offenses under KRS Chapter 528;

(4) The sale or use of alcoholic beverages on or from either licensed or unlicensed premises;

(5) Misdemeanor or felony possession, trafficking, or manufacturing drug offenses under KRS Chapter 218A;

(6) Murder under KRS 507.020 and manslaughter under KRS 507.030 and KRS 507.040;

(7) Assault or related offenses under KRS Chapter 508;

(8) Theft offenses under KRS Chapter 514;

(9) Drug paraphernalia offenses as defined by KRS 218A.500 and KRS 218A.510;

(10) Unlicensed massage therapy under KRS 309.353; ~~or~~

(11) Violations of LMCO §§ 115.170 to 115.186; ~~or~~

(12) Selling smoking retail products, as defined by LMCO § 90.02, without a license as required by LMCO § 90.11; or

(13) Violations of LMCO § 135.03 for discharging a firearm.

PREMISES. Any building, structure, parking lot, parcel of land, common area, driveway, open space or any portion thereof or the ground itself.

SECURITY PROVIDER. A person directed by the owner or manager of a late night business entity to perform security services at the late night business, and who is:

(1) An armed security guard licensed pursuant to LMCO 124.05; or

(2) A person with prior commissioned law enforcement experience from any federal, state, or local jurisdiction occurring within five years prior to the date security services are performed.

SECURITY SERVICES. Performing at least one of the following activities at a late night business:

(1) Protecting other individuals from harm;

(2) Possessing authority to physically detain or eject persons from the business premises;

(3) Controlling access to a business premises;

(4) Observing, investigating, or reporting unlawful activity;

(5) Protecting property from harm or misappropriation; or

(6) Preventing or detecting theft or misappropriation of goods, money, or other items of value.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

SECTION II: Section 149.05 of the Louisville Metro Code of Ordinances is hereby amended as follows:

§ 149.05 PERSISTENT ILLEGAL ACTIVITY PROPERTY

(A) *Determination of criminal activity nuisance.* Once established that a property is a persistent illegal activity property, the Department of Codes and Regulations shall make a determination as to whether to issue a Notice of Criminal Activity Nuisance. This determination shall be based upon procedures and protocol established by the Department of Codes and Regulations that shall take into account all relevant facts. All incidents of domestic or sexual violence or other crimes in which utilizing this ordinance may have negative public policy implications including discouraging the reporting of crimes by the victims of those crimes, shall not be considered for the purposes of this chapter.

(B) *Criminal activity nuisance.* Based upon the factors referenced in subsection (A) Code Enforcement shall make the following determination: whether the property/premises is owned or operated in such a manner as to encourage, facilitate, enable, or permit persistent illegal activity as defined by this chapter.

(C) *Determination of criminal activity nuisance.* Code Enforcement, following consideration of subsections (A) and (B), shall make one of the following determinations

within 30 days of receipt of a referral for a persistent criminal activity property from a law enforcement agency:

(1) That the circumstances of the alleged criminal activity do not warrant the issuance of a Notice of Criminal Activity Nuisance, no further action shall be taken; or

(2) If it is determined that the owner is in violation of this chapter in that their property/premises is owned or operated in such a manner as to encourage, facilitate, enable, or permit persistent illegal activity as defined in this chapter, the property/premises shall be considered a criminal activity nuisance and a Notice of Criminal Activity Nuisance shall be issued, following procedures set forth in subsection (D).

(D) *Code Enforcement procedures.* Upon a determination that a property is a criminal activity nuisance, Code Enforcement shall notify the owner and tenant(s) of the property of such determination pursuant to LMCO § 32.283(C) which shall include posting the Notice pursuant to subsection LMCO § 32.283(C)(4). In addition to following the requirements of LMCO § 32.283 and LMCO § 149.05 the Notice shall provide the following information:

(1) A statement that the premises identified in the notice has been determined to be a criminal activity nuisance; and

(2) A street address, parcel number, or legal description sufficient to identify the property; and

(3) A description of the illegal activities supporting the determination that the premises is a nuisance under this section, and the date on which the illegal activities comprising the nuisance occurred; and

(4) For property which does not have a Late Night Business on the premises, the owner's and/or tenant's opportunity to request in writing, by the date certain set forth in such notice or by an agreed upon date between interested parties, a meeting with Code Enforcement and/or local law enforcement, which may include legal representation, to discuss the allegations contained in the Notice and the need for abatement measures at the premises. Notification shall also be provided that at such meeting(s), the owner and/or tenant may enter into a possible Resolution Agreement with the city to abate the nuisance activity so long as the property does not have a Late Night Business on the premises; and

(5) Information as to whom a written request for such meeting should be sent and the date certain by which such written request must be received by Code Enforcement; and

(6) That if the owner fails to meet with appropriate city officials in a timely manner or fails to enter into a recommended resolution agreement with Louisville Metro Government or otherwise fails to abate the nuisance under this chapter, a Citation may thereafter be issued; and

(7) That if the tenant fails to meet with appropriate city officials in a timely manner or fails to enter into a recommended resolution agreement with Louisville Metro Government or otherwise fails to abate the nuisance under this chapter, that actions may be taken to remedy the ongoing criminal nuisance including that a Citation and/or an Order to Vacate and/or Close may be issued against the property which could potentially directly impact the interests of the tenant; and

(8) That when a Citation is issued for a property with a Late Night Business on the premises, the Citation will include an order to have a Security Provider on site at the

business establishment for a period of time determined pursuant to LMCO § 149.07(B) during all hours between 2:00 a.m. and 5:00 a.m. that the establishment is open to the public.

(E) *Appeal of a Notice of Criminal Activity Nuisance.* A Notice of Criminal Activity Nuisance shall not be appealable to the Code Enforcement Board and shall not be considered a pre-requisite for the issuance of a Citation or an order pursuant to LMCO § 149.07(B) when the issuance of a Notice under this chapter is not considered warranted by Code Enforcement.

SECTION III: Section 149.06 of LMCO is amended as follows:

§ 149.06 RESOLUTION AGREEMENT.

(A) *Notice.* If the property does not have a Late Night Business on the premises, the Notice of Criminal Activity Nuisance pursuant to LMCO § 149.05 may establish the following:

(1) The opportunity to discuss the allegations contained in the Notice, the need for nuisance abatement at the premises, and the parameters of such nuisance abatement; and

(2) A possible offer to enter into an agreed upon Resolution Agreement with Louisville Metro Government to abate the criminal activity nuisance identified in the Notice. An agreement may allow for the avoidance of a citation and/or any other further abatement actions by Louisville Metro.

(B) *Late Night Businesses.* If a property is determined to be a persistent illegal activity property pursuant to LMCO § 149.05 and the property has a Late Night

Business on the premises, a citation shall be issued pursuant to LMCO § 149.07 without the opportunity for a Resolution Agreement.

(C) *Resolution Agreement meeting.* A Resolution Agreement shall serve as an opportunity for a property owner to avoid the issuance of a citation and/or an abatement order. Upon a written request by the owner and/or tenant requesting a meeting to discuss a Resolution Agreement, Code Enforcement shall meet with the owner and/or tenant of the property in an effort to create a plan for the abatement of the nuisance. Stakeholders whose interests are directly impacted by the condition of the property at issue, shall have the opportunity to be included in such meeting. Code Enforcement and the owner and/or tenant of the property at issue shall have 20 days from the date of receipt of written notice requesting a Resolution Agreement for a meeting to occur.

(C) *Agreement.* At the conclusion of a Resolution Agreement meeting, Code Enforcement shall make recommendations for abatement. If the owner and/or tenant of the property agrees to comply with and/or implement the recommendations, a Resolution Agreement shall be created. Thereafter, Code Enforcement shall ensure compliance and make a determination as to the effectiveness of the abatement agreement. Upon compliance and abatement, no citation and/or abatement order shall be issued.

(D) *Procedures following agreement.* Code Enforcement shall create protocol and procedures for the determination and enforcement of compliance and abatement pursuant to a Resolution Agreement. These procedures and protocol shall be communicated to all relevant parties in the Resolution Agreement. A Resolution Agreement shall be considered an ongoing agreement and may be adjusted by the parties so as to ensure its effectiveness. Upon a determination by Code Enforcement

that the owner and/or tenants have failed or are failing to comply with the terms of the Resolution Agreement, a Citation may be issued to the owner.

SECTION IV: Section 149.07 of LMCO is amended as follows:

§ 149.07 CITATION FOR CRIMINAL ACTIVITY NUISANCE.

(A) *Citation for Criminal Activity Nuisance.* An owner that:

(1) Fails to meet with city officials in regards to a Notice of Criminal Activity Nuisance in the instance one is issued; or

(2) Fails to enter into or comply with a Code Enforcement recommended Resolution Agreement; or

(3) Otherwise fails to abate the criminal activity nuisance or,

(4) Operates, or leases property to, a Late Night Business on a premises that has been determined to be a persistent illegal activity property pursuant to LMCO § 149.05; shall be issued a Citation for Criminal Activity Nuisance. Such Citation shall be issued in accordance with LMCO § 32.283(C) and in addition to one of the other methods for notice, posted on the property pursuant to subsection LMCO § 32.283(C)(4). The Citation shall meet all of the applicable notification requirements for a Notice of Criminal Activity Nuisance.

(B) *Abatement actions.*

(1) A Citation issued pursuant to this Chapter shall include a civil fine pursuant to LMCO § 149.99~~.~~;

(2) A Citation issued to the owner of a property with a Late Night Business on the premises shall include an order requiring a Security Provider to be on site at the

business establishment during all hours between 2:00 a.m. and 5:00 a.m. that the establishment is open to the public for the following periods of time:

(a) Where one of more occasions of persistent illegal activity involved use of a deadly weapon, a Security Provider shall be on site for a period of 12 months;

(b) Where one of more occasions of persistent illegal activity involved violence without a deadly weapon, a Security Provider shall be on site for a period of 6 months;

(c) Where the occasions of persistent illegal activity did not involve a deadly weapon or violence, a Security Provider shall be on site for a period of 90 days; and

(3) Code Enforcement may also issue an order in accordance with this section when it is deemed necessary to protect the health and safety of the community. Such an Order may include any of the following actions:

(~~1~~ a) Upon sufficient proof shown, liability to the city for any and all costs incurred by the city or its agents for police service, emergency service, or any other city service reasonably related to a violation of this chapter.

(~~2~~ b) Revocation of the certificate of occupancy and/or an Order to Vacate to any current tenant/occupant.

(~~3~~ c) Revocation of an applicable occupational license or any other applicable license or permit issued by Louisville Metro Government.

(~~4~~ d) Discontinuance of the furnishing of utility service by Metro Government to the premises at which the nuisance exists.

(~~5~~ e) An Order of Closure for any commercial property for a period necessary to protect the health and safety of the community and to allow for the abatement of an ongoing criminal activity nuisance.

(~~6~~ f) Use any other legal remedy available under the laws of the state of Kentucky.

(C) *Appeal to Code Board.* The owner shall have the right to appeal a citation and/or order of abatement to the Louisville Metro Code Board pursuant to LMCO § 32.283(F). The Board shall make the following determinations and may take the following actions:

(1) Whether the property/premises is owned or operated in such a manner as to encourage, facilitate, enable, or permit illegal activity as defined by this chapter.

(2) Issuance of a civil fine consistent with LMCO § 149.99.

(3) Issue an Order(s) of Abatement consistent with subsection (B).

(4) If a Notice to Vacate and/or Close is before the Code Enforcement Board, a determination shall be made as to whether the Order shall be immediately enforceable based upon the requirements of LMCO § 149.08(C).

(5) Except for a property with a Late Night Business on the premises, the Board may institute a Resolution Agreement if agreed to by all parties in lieu of a fine and/or an abatement order.

(D) *Tenant appellate rights.* In addition to the owner, a current tenant directly impacted by an abatement order issued pursuant to this chapter may appeal to the Code Enforcement Board in accordance with § 32.283(F). Notice to the tenant shall be effectuated pursuant to LMCO § 32.283(C). In the instance that the tenant is unknown, notice shall be issued to "occupants."

(E) *Appeal from final order.* A Final Order of the Code Enforcement Board may be appealed to Jefferson District Court, in accordance with LMCO § 32.286. A trial de novo at District Court shall make the same determination as set forth in LMCO § 149.07(C).

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

_____	_____
Sonya Harward Metro Council Clerk	Brent Ackerson President of the Council
_____	_____
Craig Greenberg Mayor	Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____

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