

ORDINANCE NO. _____, SERIES 2021

AN ORDINANCE AMENDING CHAPTER 156 OF THE LOUISVILLE METRO CODE OF ORDINANCES RELATING TO THE REQUIREMENT OF PROPER PROPERTY MAINTENANCE AND THE EFFICIENT ENFORCEMENT OF VIOLATIONS.

SPONSORED BY: COUNCIL MEMBER RICK BLACKWELL

WHEREAS, this amendment is made in an effort to further Louisville Metro Government's goal of improving property maintenance so as to maintain the highest standards of safety and sanitation;

WHEREAS, the use of vehicles and trailers for the improper and unsanitary storage of trash, rubbish, and waste remains an ongoing problem within the community warranting action; and

WHEREAS, this amendment will create a more efficient procedure to allow Louisville Metro Code Enforcement to adequately address this problem.

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

SECTION I: Louisville Metro Code of Ordinances ("LMCO") Section 156.005 is amended as follows:

§ 156.005 DEFINITIONS.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include ~~the residue from the burning of wood, coal, coke and other combustible materials,~~ paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and other similar materials, and the residue from the burning of wood, coal, coke, and other combustible materials.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act, which was prohibited, or failed to do an act, which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

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

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.
TRAILER. For the purposes of this Chapter, includes travel trailers, boat trailers, noncommercial utility trailers and any other nonautomotive vehicle designed for hauling.

SECTION II: LMCO Section 156.052 is amended as follows:

§ 156.052 EXTERIOR PROPERTY AREAS.

(A) *Sanitation.* All exterior property and premises shall be maintained in a clean, safe and sanitary condition, free of all garbage, rubbish, debris, waste, and trash. It shall be unlawful for any person to place, throw, leave, or permit to remain any rubbish, waste, debris, or garbage upon any real property of which they are an owner or occupant.

(B) *Grading and drainage.* All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Water retention areas and/or reservoirs approved by the Metropolitan Sewer District are exempted.

(C) *Sidewalks, driveways and yards.* All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. On residentially used lots the use of crushed stone as a hard-durable surface is permitted on lots of less than five acres the standards as promulgated by regulation by the Code Official for installation and maintenance are continually satisfied in the required front and side yards and right-of-ways.

(D) *Weeds.* All premises shall be maintained free from weeds or plant growth in excess of ten inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation other than trees or shrubs provided, however, this term shall not include cultivated flowers and gardens. Any plant growth exceeding ten inches in height on land of more than three acres that abuts another parcel which contains a dwelling or commercial building thereon other than crops, trees, bushes, flowers or other ornamental plants, shall be at least 50 feet from the property line or 200 feet from an occupied structure, whichever is less.

(E) *Rodent harborage.* All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes, which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation. Information to alleviate and prevent the infestation of insects, mosquitoes, flies, rats and other vermin may be obtained from the Louisville Metro Public Health and Wellness Department.

(F) *Exhaust vents.* Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(G) *Accessory structures.* All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

(1) *Gates.* Gates which are required to be self-closing and self-latching in accordance with the International Building Code shall be maintained such that the gate will positively close and latch when released from a still position of six inches (152 mm) from the gatepost.

(2) *Swimming pools.* Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

(3) *Fences.* All fences contained on any premises shall satisfy the height and location requirements as set forth in the Land Development Code.

(H) *Motor vehicles and trailers.*

(1) *Storage and maintenance.* Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle or trailer shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited on residentially zoned or used property. A vehicle or trailer of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

(2) *Permissible Parking.* All motor vehicles and trailers on any premises, other than agricultural land, must be parked on a hard and durable surface, such as asphalt, brick or concrete or any surface permitted pursuant to § 156.052(C). In addition, motor vehicles and trailers may only be parked on those portions of the premises, which the Land Development Code allows as permissible parking areas. For purposes of this section, motor vehicles and agricultural land are as defined in the Land Development Code.

(3) *Vehicles and trailers for waste storage.* It shall be unlawful for any person to store, leave, or permit to remain, without good cause, any excessive rubbish, waste, debris, or garbage on or in a motor vehicle or trailer located upon property intended for residential use as defined in the Land Development Code.

(4)(4) *Additional remedy.* In addition to the penalties provided in § 156.999, the Code Official may issue an written notice and order to abate to the registered owner of the motor vehicle and/or trailer parked or stored in violation of this section or to the owner or person in possession of private property upon which the motor vehicle and/or trailer is illegally parked or stored. The order to abate may require requiring that the motor vehicle and/or trailer be removed from the county, stored inside a fully-enclosed structure or similarly-enclosed area designed and approved for such purposes, or that the violation be otherwise removed and abated within seven days including the legal disposal of all rubbish, waste, debris, or garbage. This The notice order to abate may shall be served on the appropriate party either personally, or by first-class certified or registered mail or and by both affixing said notice order to the motor vehicle or trailer parked or stored in violation of this section and by posting the order to abate in a conspicuous place on or about the property upon which the motor vehicle and/or trailer is illegally parked or stored.

(2)(5) *Removal by Metro Government.* In the event that any person fails to comply with an order to abate pursuant to this section, the Code Official may have the motor vehicle and/or trailer parked or stored in violation of this section, removed and disposed impounded of and may impose on the person violating the order a reasonable charge to cover the direct and indirect costs, if any, for the removal and disposition of the motor vehicle or major parts thereof in accordance with the terms set forth in § 156.052(I); or if the violation is of § 156.052(H)(3) the Code Officer may, instead of impoundment of the motor vehicle and/or trailer, remove and dispose of the offending rubbish, waste, debris, or garbage. The Code Official may impose on the person violating the order reasonable and necessary costs to cover the direct and indirect costs, if any, for the removal and

disposal of any rubbish, waste, debris, or garbage. Appeals of the imposition of such costs shall be made pursuant to the procedures of § 156.808.

(3 6) *Removal by agreement.* The Code Official may, on the proper execution of a waiver and authorization agreement in a form approved by the Jefferson County Attorney and subject to the available resources therefore, remove and dispose of any motor vehicle left on any public or private property within the Metro Government under circumstances indicating an abandonment, desertion, relinquishment, or a divestment of the motor vehicle, at no cost to the person involved.

(I) *IMPOUNDMENT OF VEHICLES PURSUANT TO § 156.052(H).*

(1) *Impoundment.* Metro Government may impound a motor vehicle and/or trailer found in violation of the provisions of § 156.052(H) according to the provisions of this chapter. A citation shall be issued pursuant to § 32.283 and shall include notice of the impoundment. In addition, the citation and notice of impoundment, shall be posted in a conspicuous place on or about the property from which the motor vehicle and/or trailer was taken. The citation and notice of impoundment shall include information concerning the available process to obtain a hearing and the process by which to recover the vehicle and/or trailer at issue.

(2) *Impoundment period and release upon payment.* Any motor vehicle or trailer impounded under this section shall be held for a minimum of 24 hours. After 24 hours, and before the expiration of the appeal period contained in § 32.283, Louisville Metro may release the motor vehicle to the owner or other person entitled to possession under the following conditions:

(a) Payment of all abatement expenses incurred by Louisville Metro Government including for the removal of any garbage, rubbish, debris, waste, and trash if at issue; and

(b) Payment of all towing, handling, impoundment, and storage charges imposed.

(3) *Appeal of vehicle impoundment to Code Enforcement Board.*

(a) Within seven days of the impoundment of a motor vehicle and/or trailer, any person against whom a citation has been issued and/or the owner of a motor vehicle that has been impounded pursuant to this section, or other person entitled to possession, may request a hearing on the citation and impoundment by requesting in writing a hearing before the Code Enforcement Board. The hearing shall be conducted within ten business days of the date of the request, unless the owner or other person entitled to possession waives the limitation or Metro Government shows good cause for such delay. Metro Government shall retain possession of the motor vehicle and/or trailer pending the hearing, unless the owner or other person claiming right of possession posts a bond in an amount equal to the accrued costs pursuant to § 156.052(I)(2)(a) and (b) or \$1,000, whichever is less.

(b) No less than five days prior to the date set for the hearing, Metro Government shall notify the person requesting the hearing of the date, time, and place of the hearing.

(c) The provisions of § 32.283-284 shall apply to any person who fails to request a hearing or fails to appear at the time and place set for a requested hearing.

(d) At the hearing, after consideration of the evidence, the Code Enforcement Board shall determine whether a violation was committed. Where it has not been established that a violation was committed, an order releasing the vehicle shall be entered. All fines and fees paid or amounts posted as bond because of the impoundment of the vehicle shall be returned. Where it has been established that a violation was committed, the

Board shall uphold the impoundment and condition the release of the vehicle upon payment of all fines and fees accruing thereto set out in § 156.052 (1)(2). If bond has been posted as security for release of the vehicle, said bond shall be forfeited to Metro Government up to the amount then owed pursuant to § 156.052 (1)(2), with the remainder refunded. Any costs or fees in excess of the amount of the bond posted shall be ordered to be paid by the owner of the vehicle to Metro Government. The Code Enforcement Board shall furnish the owner or person appearing on the owner's behalf with a copy of its order.

(e) An appeal of any citation, including the impoundment of a motor vehicle and/or trailer, shall utilize the procedures set forth in this Chapter, § 156.808, and § 32.275 et seq.

(4) Additional requirements for release of a motor vehicle. Before the release of a motor vehicle and/or trailer pursuant to § 156.052 (1)(2) or (3) the owner or other person entitled to possession, must establish proof of ownership or right to possession and the meeting of all other provisions of the Vehicle Impoundment Division of the Louisville Metro Government. Metro Government may require reasonable security, bond, or other assurances of indemnification from a person who is not the registered owner of the vehicle and/or trailer prior to releasing the vehicle to such person.

(5) Appeal from Hearing Board to District Court.

(a) An appeal from the Code Enforcement Board's determination may be made to the Civil Division of Jefferson District Court within 30 days of the Board's determination. The appeal shall be initiated by the filing of a complaint and a copy of the Board's order in the same manner as any civil action. The action shall be tried de novo and the burden shall be on Metro Government to establish that a violation was committed. If the Court finds that a violation was committed, the owner shall be ordered to pay all fees and fines accruing as of the date of judgment. If the Court finds that a violation was not committed, Metro Government shall be ordered to release the motor vehicle and/or trailer, if applicable, and to return a posted bond or all fines, costs, and fees paid as a result of the impoundment.

(b) The judgment of the Jefferson District Court may be appealed to the Jefferson Circuit Court, in accordance with the Rules of Civil Procedure.

(6) Impoundment; response to notice required. If a hearing has not been requested pursuant to § 156.052(1), § 156.808, and § 32.275 et seq. and a motor vehicle and/or trailer impounded by Metro Government has not been claimed, notice shall be mailed by certified mail to the registered owner, if known, and lien holders of record, if any, affording the parties the right within ten days from the date of notice to claim the vehicle or request a hearing pursuant to KRS 82.625. The notice shall state that, if no hearing is requested, the vehicle and/or trailer shall be deemed abandoned unless the charges thereon are paid within 45 days of the certified mailing of the notice.

(7) Impoundment; escheat to Metro Government if no response to notice.

(a) After 45 days from the date of impoundment, if no appeal is filed, or if an appeal is filed, 45 days from the date of a final order of the last presiding administrative body or court with jurisdiction, an impounded motor vehicle and/or trailer shall be deemed abandoned and the vehicle and/or trailer shall escheat to Metro Government.

(b) If the vehicle and/or trailer is judged suitable for use, Metro Government may obtain a certificate of registration and ownership from the Jefferson County Clerk,

pursuant to KRS 186.020 and either use the vehicle for governmental purposes or sell the vehicle at public auction to the highest bidder. If the vehicle and/or trailer is not suitable for use it may be sold for its scrap or junk value.

(8) Metro Government lien on vehicles impounded. In addition to any remedy provided by § 32.275 et seq. Metro Government shall possess a lien on a motor vehicle and/or trailer impounded, pursuant to KRS 82.625 for all fines, penalties, and towing, handling, and storage charges and fees imposed thereupon. Such lien shall be superior to and have priority over all other liens thereupon.

(9) No effect on security interest in vehicle. Nothing in these provisions shall otherwise affect the rights or obligations between the owner of the motor vehicle and/or trailer and those persons who claim a security interest therein.

(10) Release of impounded vehicle upon payment of fees. In addition to the release requirements imposed under this Chapter, any motor vehicle and/or trailer impounded pursuant to § 156.052 may be released to the appropriate owner or other person entitled to possession of the vehicle and/or trailer upon payment of any fines, accumulated costs, and abatement costs imposed under this Chapter and of all towing and impoundment fees incurred up to the date of the release request.

SECTION III: This Ordinance shall take effect upon its passage and approval.

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: _____