

ORDINANCE NO. _____, SERIES 2021

AN ORDINANCE AMENDING THE LOUISVILLE METRO CODE OF ORDINANCES CHAPTERS 92 AND 130 RELATED TO BIAS-RELATED CRIMES AND OFFENSES TO MAKE PEOPLE EXPERIENCING HOUSELESSNESS A PROTECTED CLASS.

SPONSORED BY: COUNCIL MEMBERS ARTHUR, DORSEY, CHAMBERS ARMSTRONG, HOLLANDER, GEORGE, AND ACKERSON

WHEREAS, according to the Office of Housing and Urban Development's 2020 Annual Homeless Assessment Report, roughly 580,000 people experienced homelessness in the United States on any given night in 2020; and

WHEREAS, the National Homelessness Law Center, as part of the work done by the National Coalition for the Homeless, releases an annual report called Housing Not Handcuffs. The report analyzes the ordinances of 187 communities across the country that criminalize daily acts of survival for people who are forced to live outdoors; and

WHEREAS, these laws push a cycle of structural violence and social injustice which leads to negative perceptions of people who are homeless. These negative perceptions, according to the National Coalition for the Homeless, further a general lack of compassion and lack of motivation to invest in housing and other systemic solutions to address endemic poverty; and

WHEREAS, the National Coalition for the Homeless reports that in 83 documented incidents of anti-homeless violence between 2018 and 2019, 39 people experiencing homelessness lost their lives in violent attacks; and

WHEREAS, on March 18th, 2018 in Albuquerque, New Mexico, two teens left a birthday party to kill a homeless man for sport. The teens later returned to the party after killing Ronnie Ross, a person experiencing houselessness. Timothy Chavez, 15 years

old, and Anthony Gallegos, 17-years-old, bragged to people about how they had shot a “hobo” six times; and

WHEREAS, on November 28, 2018 in Phoenix, Arizona, a man was arrested after police said he murdered a homeless man because he was angry about the increase in the homeless population around his north Phoenix neighborhood; and

WHEREAS, on July 8, 2015, in Louisville, Kentucky, Frederick “Skip” Baker, a 66-year-old man experiencing homelessness with terminal cancer, was stabbed 36 times to death by Christopher Winstead. Winstead was recorded on a jail call saying he was “looking for a homeless guy” to kill and that the killing of Baker was justified because [Baker], “didn’t really have much to look forward to”; and

WHEREAS, over the past 20 years the National Coalition for the Homeless has documented these and over 1,869 other hate crimes committed against homeless people by housed individuals. These attacks have cost 515 un-housed people their lives, including Louisvillian Frederick “Skip” Baker; and

WHEREAS, the National Coalition for the Homeless urges policy solutions such as ensuring housing as a human right for all people, reversing ordinances and municipal practices that criminalize homelessness, enacting hate crime legislation to protect people experiencing homelessness, and collecting more complete data on crimes against people experiencing houselessness.

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

SECTION I: Louisville Metro Code of Ordinances (“LMCO”) Section 92.40 is amended as follows:

It is hereby declared to be the policy of the Metro Government for the preservation of the peace, protection, comfort, health, safety, and welfare of persons in Jefferson County to protect all persons from tortious acts of interference with their person and/or their property motivated by hate or bias directed at classes of persons which historically have been victimized by such acts, as specifically set forth in Section (b)(1) of the federal Hate Crimes Statistics Act (Public Law 101-275) and, in addition, classes of persons identifiable by gender and/or disability or health related condition or housing status. Persons victimized by such acts in Jefferson County must have adequate remedies for redress of their grievances. The Metro Government recognizes that such acts are often punishable as crimes. Criminal statutes undoubtedly have had a desirable effect in diminishing the number of these acts of discrimination, intimidation and terror in punishing the perpetrators of such acts. However, the Metro Government finds that many such acts are not reported as crimes because victims are frightened and feel they have little to gain by reporting them. The Metro Government further finds that its experience in providing civil redress for civil rights violations in the areas of public accommodations and housing, through the Louisville/Jefferson County Human Relations Commission, provides a promising model for diminishing acts of discrimination, intimidation and terror and for affording civil remedies for victims of such acts.

SECTION II: LMCO Section 92.41 is amended as follows:

(A) No person shall discriminate against another person by intentionally interfering with another person or the property of another person with the motive to intimidate or interfere with or oppress the other person because the other person is a member of one or more classes or persons referenced in paragraph (b)(1) of the federal Hate Crimes Statistics Act

(Public Law 101-275) and/or, in addition, classes of persons identifiable by gender and/or disability or health related condition or housing status.

(B) A person intentionally interferes with another person by committing a tortious battery, assault, imprisonment or infliction of mental distress. A person intentionally interferes with the property of another person by trespassing on the other's land or by tortuously and deliberately damaging, defacing or destroying the real or personal property of the other person.

(C) A person is shown to have acted intentionally when his or her conduct is such that a reasonable person in his or her position would believe that the particular wrongful result of his or her conduct which did in fact occur was substantially certain to follow from said conduct.

(D) A person is shown to have acted with the motive of intimidating, interfering or oppressing another person because the other person is a member of one or more of the classes of persons referenced in paragraph (b)(1) of the federal Hate Crimes Statistics Act (Public Law 101-275) and/or, in addition, classes of person identifiable by gender or disability or health related condition or housing status when it is shown by a preponderance of evidence that a material factor in the Commission of the act was the person's underlying purpose to cause such intimidation, interference or oppression of the other person and/or of others in the same protected class as the other person.

(E) Except for the list of protected classes set forth in paragraph (b)(1) thereof, no section of the federal Hate Crimes Statistics Act is incorporated herein.

SECTION III: LMCO Section 130.50 is amended as follows:

BIAS-RELATED CRIME. A criminal offense including a criminal violation of law committed with the evident intention or design to intimidate or terrorize a person or class of persons which historically have been victimized by such acts as specifically set forth in Section (b)(1) of the Federal Hate Crimes Statistics Act (Public Law 101-275) and, in addition, classes of persons identifiable by gender and/or disability or health related condition or housing status.

SECTION IV: LMCO Section 130.51 is amended as follows:

(C) The age, race, religion, national origin, ethnic identity, gender, sexual orientation, disability or health-related condition, or housing status of the victim or alleged victim of the bias-related crime.

SECTION V: This Ordinance shall be effective 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: _____