File #: O-336-20, **Version:** 1

ORDINANCE NO. _____, SERIES 2020

AN ORDINANCE AMENDING THE LOUISVILLE METRO CODE OF ORDINANCES TO ENSURE SAFE, UNOBSTRUCTED ENTRY TO AND EXIT FROM A HEALTHCARE FACILITY.

SPONSORED BY: COUNCIL MEMBERS GREEN, SHANKLIN, DORSEY, SEXTON SMITH, COAN, HOLLANDER, TRIPLETT, GEORGE, AND PRESIDENT JAMES

WHEREAS, the Louisville Metro Council recognizes that unimpeded access to health care facilities for the purpose of obtaining medical counseling and treatment is imperative to the safety and well-being of the City and community;

WHEREAS, preventing the willful obstruction of and interference with peoples' access to medical counseling and treatment at a health care facility is a matter of City-wide concern especially due to the current health pandemic caused by the 2019-novel Coronavirus ("COVID-19"), which is a new communicable disease that has not been previously identified in the world;

WHEREAS, there is currently no vaccine to prevent COVID-19 and the best way to prevent illness is to avoid being exposed to this virus;

WHEREAS, according to the Center for Disease Control and Prevention ("CDC"), the virus is thought to be spread mainly between people who are in close contact with one another (within about six (6) feet);

WHEREAS, according to the CDC, people with underlying medical conditions entering or leaving a healthcare facility are more likely than others to become severely ill or may even die if they are exposed to the virus;

WHEREAS, there is a documented history of obstruction of and interference with people's access to healthcare facilities in Louisville caused by close contact with other individuals;

WHEREAS, there is no mandate or law requiring Louisville Metro Police Department ("LMPD") officers to enforce social distancing guidelines in order to protect individuals from the spread of COVID-19;

WHEREAS, as of July 16, 2020, over 3,483,832 individuals in the United States have been diagnosed with COVID-19, with 21,083 of those cases being Kentucky citizens;

WHEREAS, as of July 16, 2020, over 136,938 individuals in the United States have died from COVID-19, with 650 of those deaths being Kentucky citizens;

WHEREAS, the limited size of the buffer zone outside of healthcare facilities' entrances established by this legislation is necessary to ensure that patients and employees of healthcare facilities have unimpeded access to health care services, without the risk of being exposed to COVID -19, and that traffic on busy city streets can proceed safely; and

WHEREAS, the limited size of the buffer zone ensures that First Amendment freedoms including speech and peaceable assembly are not unduly restricted or overburdened, and no more affected than minimally necessary to ensure access to healthcare facilities and mitigate the risk of COVID-19 exposure.

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

SECTION I: A new subchapter of the Louisville Metro Code of Ordinances, 132.09, is hereby enacted as follows:

(A) Definitions.

(1) Buffer zone means an area on the public way or sidewalk extending forward from the entrance of a healthcare facility to the closest adjacent street curb and measuring twelve (12) feet from side to side.

(2) Driveway means an entry from a public street to a public or private parking area

or patient drop-off and pick-up area used by a healthcare facility.

(3) Entrance means any exterior door to a healthcare facility that directly abuts a public sidewalk; provided, however, that if the door does not directly abut a public sidewalk, the "entrance" shall be the point at which a public sidewalk intersects with a pathway leading to the door.

(4) Healthcare Facility means any institution, public or private, whether organized for profit or not, used, operated, or designed to provide emergency or non-emergency medical services, medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes but is not limited to abortion services, alcohol abuse, drug abuse, and mental health services. This shall include the grounds, driveways, and parking lots in which any such facility has an ownership or leasehold interest.

(B) Access to a healthcare facility

(1) No person shall knowingly obstruct, detain, hinder, impede or block another person's entry to or exit from a healthcare facility.

(2) No person shall knowingly enter, remain on, or create any obstruction within the driveway of a healthcare facility or within a buffer zone during the facility's posted business hours, except:

(a) licensees and invitees entering or leaving such facility;

(b) persons using the public sidewalk or street right-of-way adjacent to such facility solely for the purpose of reaching a destination other than such facility; or

(c) law enforcement, ambulance, firefighting, properly permitted construction, utilities, public works and other municipal agents acting within the scope of their employment; or

(d) employees or agents of such facility acting within the scope of their employment or agency.

(C) Signage

The Department of Public Works shall, at the request of any healthcare facility, paint or lay on the public way or sidewalk easily distinguishable demarcation lines marking the buffer zone and post such zone with signage stating: “Healthcare facility: No standing or obstructions within this zone” and citing this ordinance.

(D) Penalties

(1) Citations will be issued pursuant to Louisville Metro Code of Ordinances (“LMCO”) § 32.283.

(2) Prior to issuing a citation for a violation of this section, a police officer or any law enforcement officer shall issue one written warning to an individual. If the individual fails to comply after one warning, such individual shall be given a citation. Failure to comply after one warning shall be cause for citation whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.

(3) Any person violating any of the provisions of this Ordinance shall for each such violation, upon conviction thereof, be subject to a fine of no less than one hundred dollars ($100) and not more than five hundred dollars ($500).

(4) The person to whom the citation is issued shall respond to the citation within seven days of the date of issuance by either paying the civil fine or requesting, in writing, a hearing to contest the citation. If the person fails to respond to the citation within seven days, the person shall be deemed to have waived the right to a hearing and the determination that a violation was committed shall be considered final. In this event, the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation, and the person shall be deemed to have waived the right to appeal the final order to Jefferson District Court pursuant to LMCO § 32.283(F).

(E) Severability

(1) The provisions of this section are severable. If any provision of this ordinance is declared invalid, that invalidity shall not affect other provisions of the ordinance which can be given effect without the invalid provision.

SECTION II: 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: _____
O-336-20 - Buffer Zone Ordinance. Last updated 7/30/2020