

ORDINANCE NO. 222, SERIES 2010

AN ORDINANCE MANDATING A LICENSE FOR HOMELESS SHELTERS AND TRANSITIONAL HOUSING. (AMENDED BY SUBSTITUTION)

Sponsored By: Council Member Bob Henderson

WHEREAS, Metro Louisville has a large number of homeless men, women and children, whose lack of resources make them a vulnerable population; and

WHEREAS, Metro Louisville has many organizations operating shelters that provide food, health care and social services to the homeless; and

WHEREAS, Metro Government desires to ensure the health and safety of its homeless population by establishing certain minimum health and safety standards for the operation of homeless shelters and transitional housing.

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

Section 1: DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADDRESS. The physical location/address of a person or entity. It may not be a P.O. Box address.

CAMPUS. Shelters located on contiguous lots that are operated by the same Operator.

CRIMINAL RECORD CHECK. A criminal record check performed by the Kentucky Administrative Office of the Courts for records of criminal actions in Kentucky.

DEPARTMENT OF PUBLIC HEALTH AND WELLNESS. The Louisville Metro Department of Public Health and Wellness.

DIRECTOR. The Director of the Louisville Metro Department of Codes and Regulations.

HOMELESS or HOMELESS INDIVIDUAL OR PERSON. An individual who lacks a fixed, regular, and adequate nighttime residence; and an individual who has a primary nighttime residence that is:

- A. a supervised publicly or privately operated homeless shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); or
- B. an institution that provides a temporary residence for individuals intended to be institutionalized; or
- C. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for hum beings.

HOMELESS SHELTER. A facility the primary purpose of which is to provide temporary shelter for the homeless. The facility provides overnight sleeping accommodations with or without charge; may provide meals and ancillary social, educational or health services. The facility is staffed. No facility that is operated by the American Red Cross or other like entities to accommodate disaster victims who are left homeless due to events such as fires, flood, or hazardous materials releases that is operated under the Louisville/Jefferson County Emergency Operations Plan is included.

OPERATOR. The person or group that runs Transitional Housing or a Homeless Shelter.

RESIDENT. A person properly registered or signed into a Shelter for overnight occupancy that uses any or all of the services of a Shelter.

SHELTER. Transitional Housing or a Homeless Shelter.

TRANSITIONAL HOUSING. A temporary residential living arrangement for persons participating in a program that provides supportive services (such as counseling, education, training, etc.) to help persons achieve personal independence. Staff is available as needed. Transitional housing is not a Rehabilitation Home (as defined in the Land Development Code). These facilities are not subject to the Uniform Residential Landlord Tenant Act (KRS 383.500 et seq.).

TUBERCULIN SKIN TEST (TST). The Tuberculin Skin Test, referred to herein as TST, is performed by injecting a small amount of tuberculin purified protein derivative into the inner surface of the forearm. The test is read at a later date to determine whether a person has been infected with tuberculosis.

Section 2. ANNUAL LICENSE REQUIRED; POSTING OF LICENSE.

- A. No person, firm, or corporation shall own or operate a Shelter on any premises within Jefferson County unless an annual license for the operation of a Shelter has been applied for and issued by the Director for the premises and the license remains in effect in conformity with the provisions of this subchapter.

- B. Any license issued under this subchapter shall be valid from the date of issuance until the next occurring September 1st, whether or not the next occurring September 1st is within the same calendar year as the grant of the license, unless the license has been suspended or revoked.
- C. Each owner or Operator of a Shelter licensed under this subchapter shall post the Operator's license, in a conspicuous place at or near the entrance to such Shelter so that it may be easily read at any time.
- D. Application for renewal of a license shall be made at least 90 days, but not before 210 days, before the expiration of the current license.
- E. If the renewal application and/or the annual fee are not tendered in a timely fashion, the Director shall serve notice to the Operator that the failure to submit the renewal application and/or the annual fee within ten business days will be deemed an abandonment of the license as of the above-referenced renewal deadline. Service of the notice required by this section shall be deemed complete upon certified mailing, return receipt requested, or personal delivery.

Section 3. ANNUAL APPLICATION FOR LICENSE; INVESTIGATION; FEE.

- A. Each annual application to the Director for a license to operate a shelter shall be in writing, notarized, and shall be in the form prescribed by the Director. The application, at a minimum, shall set forth:
 - 1. The name, address, and phone number of the applicant;
 - 2. The names, addresses, and phone numbers of the principal officers, if the applicant is a corporation;
 - 3. The designation of a registered office and registered agent (who regularly works at the registered office) located in Jefferson County, Kentucky which registered agent shall be its representative for the service of process or notice under this subchapter;
 - 4. The location for which the permit is desired;
 - 5. If the applicant is not the owner of record of the real property on which the shelter is located or to be located, the application shall include the name and address of the owner of record of the real property, and a copy of lease or other agreement authorizing use of the property by applicant;

6. The names, addresses, and a copy of a government issued identification card of all shelter employees known as of the date of application;
 7. Have a criminal record check performed on any owner, officer, director, or employee having direct contact with a child at the shelter;
 8. Provide a statement that the shelter maintains on site the social security number, or a complete set of finger prints for all owners officers, and employees, and a current list of its board of directors with their mailing address and other contact information; and
 9. The notarized statement of all owners, officers, directors, and employees that have direct contact with a child at the shelter that each does not have a criminal record involving a felony violation of any crime against a minor, or an equivalent law of another jurisdiction within ten years next preceding the date of application, or any violation of this ordinance.
- B. A nonrefundable fee of \$100 shall accompany the application for a shelter. A nonrefundable fee of \$150 shall accompany the application for a Campus.
- C. 1. An annual application for a license must be made for each separate shelter or Campus.
2. When an application is received by the Director, the Director shall refer a copy of the application to the appropriate Metro Government agencies, which shall within ten business days of their receipt of the license application cause the facilities to be inspected to determine if the facilities meet the zoning, health, sanitation, structural, fire, and safety requirements set out in any applicable state and local laws, and report such information to the Director within ten business days of such inspection.
- a. A food establishment inspection shall not be required at the time of application for a Shelter license if the Department of Public Health and Wellness conducted such an inspection at the Shelter location within the six months prior to the application, or if the Shelter does not have cooking facilities. The Department of Public Health and Wellness will advise the Director in writing as to whether a food establishment inspection is required for the Shelter license application.

- D. A license to operate a Shelter shall be issued to the applicant by the Director within ten business days after receipt of the inspection reports required by paragraph D. above, if the application is fully and accurately completed and if the required inspections reveal that the Shelter meets the zoning, health, sanitation, structural, fire, and safety requirements of any currently applicable federal, state and local laws as may be amended from time to time. However, no license shall be issued by the Director if any one of the following is found to be true:
1. The applicant or any of its owners, officers, directors, or employees that have direct contact with a child at the Shelter will check to confirm that a criminal record is not had involving a felony violation of any crime against a minor, or an equivalent law of another jurisdiction within ten years next preceding the date of application, or any violation of this ordinance; or
 2. An applicant is delinquent in the payment to Metro Government of taxes, fees, fines or penalties assessed against or imposed upon the applicant in relation to a Shelter; or
 3. The license fee required by paragraph C. above has not been paid; or
 4. The proposed Shelter is located in a zoning district other than a district in which Shelters are allowed to operate under the applicable zoning regulations of Metro Government; or
 5. The applicant's premises have been found by the Director to not be in compliance with laws or regulations of any applicable federal, state or local governments.
- E. In the event of denial, the Director shall notify the applicant in writing of the reasons for such denial. Said notice shall be mailed, certified mail, return receipt requested, within ten business days after the Director receives the inspection reports required by paragraph D. above.
- F. In the event the inspection required by this section is not completed within the time frame set forth in subsection E. hereof or if the Director fails to notify the applicant in writing of the reasons for denial of the application in the manner prescribed in subsection F. hereof, then the application will be deemed to be granted and the Shelter authorized to operate until such time as all required inspections have been completed, the Director has received the required reports, and the applicant receives notice of the Director's decision on the application by certified mail, return receipt requested.

Section 4. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS.

Each separate Shelter shall be in compliance with any currently applicable laws and regulations of the federal, state, or local governments, as may be amended from time to time including but not limited to, laws or regulations on nondiscrimination, zoning, building, safety, property maintenance, food sanitation, health and sanitation, fire, electrical, plumbing, mechanical, reporting the dependency, abuse or neglect of minor children, and other applicable laws.

Section 5. DUTIES OF OPERATOR.

- A. In addition to being in compliance with any currently applicable laws and regulations of the federal, state, or local governments required by Section 4 above, it shall be the duty of the Operator of a Shelter licensed under this subchapter to:
1. Maintain the health and safety standards set out herein or in any currently applicable laws or regulations of the federal, state, or local governments as may be amended from time to time; and
 2. Have a criminal record check performed on all employees having direct contact with a child at the Shelter prior to such employee's performing duties for the Shelter, and annually thereafter; and
 3. Have a criminal record check performed on all volunteers having direct contact with a child at the Shelter within one week of the volunteer first volunteering for the Shelter, and annually thereafter; and
 4. Require all employees and volunteers, that have regular and ongoing direct contact with residents, to provide the Shelter with a tuberculosis medical clearance card issued by a licensed medical professional within 7 days of the employee's or volunteer's first working day at a Shelter, and a one step TST annually thereafter; and
 5. Require all new residents at a Shelter, within seven days of admission, and annually thereafter, to provide the Shelter with a tuberculosis medical clearance card issued by a licensed medical professional; and
 6. Maintain a confidential central file of the tuberculosis medical clearance cards for all employees, volunteers, and residents as required by sections 5 A.4 and 5 A. 5; and

7. Provide and have available for review by any employee, volunteer, or resident, educational materials about tuberculosis; and
8. The rate of ventilation at a Shelter should be at or above 25 cubic feet of outside air per minute per person to assist in the prevention of transmission of tuberculosis; and
9. Refer any employee, volunteer, or resident suspected of having a communicable disease to the appropriate medical authority for testing; and
10. Provide and have available for review, by any employee, volunteer, or resident, , educational materials regarding communicable diseases and precautions to be taken to protect the employee, volunteer, and Shelter residents; and
11. Maintain a written and posted First Aid and Cardio Pulmonary Resuscitation (“CPR”) policy, including having:
 - a. At least one person trained and currently certified in First Aid and CPR on duty on each shift; and
 - b. All certifications of employees or volunteers for First Aid and CPR shall be kept on file for inspection by the Department of Public Health and Wellness; and
 - c. Adequate and available medical supplies for First Aid and CPR.
12. Provide written policies and procedures on the handling of prescription or over-the-counter drugs, including controls and/or limitations on access to prescription and over-the-counter drugs kept in the Shelter.
13. Maintain sanitary conditions in the Shelter; and
14. Maintain all mattresses and box springs with a water resistant encasing protective cover that will resist tearing and can be wiped thoroughly with a disinfectant cleaner before use by any other residents;
15. Post a clearly marked evacuation plan that is approved by the appropriate Fire Department or Fire District official in areas available to both Shelter staff and residents, and keep a copy of the plan on file;

16. Provide services to all individuals within Jefferson County free from discrimination because of race, color, religion, national origin, familial status, age, disability, sex, gender identity, or sexual orientation;
17. Allow residents access to restrooms during Shelter hours of operation.
18. If required, have and maintain a Kentucky food establishment permit and have received a passing score on their most recent inspection.

Section 6. RIGHT OF ENTRY TO INSPECT.

Any peace officer, Fire Department or Fire District official, the Department of Public Health and Wellness, and any other appropriate investigating officials of the Metro Government, shall have the right to enter any portion of a Shelter's premises during regular business hours where Shelter residents and employees are permitted for the purpose of making reasonable inspections and determining compliance with zoning, health, sanitation, structural, electrical, plumbing, fire, and safety regulations, as well as all other provisions of law or regulations.

Section 7. TRANSFER OF LICENSE.

- A. No Shelter license shall be transferable except with the written approval of the Director. The application for such a transfer shall be in writing and shall contain the same information required for the initial application for such a license.
- B. The application procedure shall be the same as outlined in § 3F. A \$100 transfer fee shall be charged for each such license transfer.
- C. In the event of denial, notification and reasons for denial shall be given to the applicant in the manner provided by § 3. A denial of a transfer may be appealed in the same manner as the denial of an application for an original Shelter license.

Section 8. DENIAL OF APPLICATION FOR A NEW LICENSE.

- A. In the event the Director denies an application for a new Shelter, the Director shall advise the applicant of his or her decision, and the reasons therefore, by certified letter, return receipt requested, sent to the most current address listed in the affected Operator's file. Such denial of an application for a new Shelter license shall include information regarding the right to appeal the decision. The applicant affected by the denial of a new permit shall have ten business days from the date of receipt of said notice to appeal the Director's decision by notifying him or her in writing

of the basis for said appeal. The notice of appeal may be hand delivered to the Director or sent certified mail, return receipt requested. Unless a timely notice of appeal is received, the decision of the Director shall be final. When the Director denies an application for a new Shelter, the applicant shall not operate as a Shelter until either the Code Enforcement Board or a court of competent jurisdiction so orders. Notwithstanding the preceding sentence, all homeless shelters and transitional housing facilities in existence and in operation on the effective date of this Ordinance shall be issued an initial license for a term in accordance with Section 2 B.

- B. When the Director receives a notice of an appeal, he or she shall schedule a time and date for the appeal to be heard before the Code Enforcement Board and such hearing shall be held within 30 calendar days of the date the Director receives the notice of appeal. The Director shall notify the appellant in writing of the hearing date and may send such notice by regular first class mail. The appellant may request an alternate hearing date but in no event shall it be more than 30 days after the originally scheduled date.
- C. At the hearing on the new license denial, the appellant shall have the right to counsel, present evidence and offer testimony by witnesses. The hearing shall be transcribed. The Board shall render written findings within 20 days of its oral decision. The Board's decision will be final unless appealed.
- D. Any party adversely affected by the Code Enforcement Board's decision may appeal it to the Jefferson Circuit Court within 30 days of the date the Board issues its written findings. The party appealing the Board's decision will be responsible for the cost of preparing the transcript which, along with evidence presented and the written findings of the Board, shall constitute the record on appeal. The decision of the Board shall be effective during the pendency of the appeal unless stayed by a court of competent jurisdiction.

Section 9. REVOCATION, SUSPENSION, OR DENIAL OF THE TRANSFER OF A LICENSE.

- A. In the event the Director has reason to believe that a Shelter is operating in violation of this subchapter, or that the transfer of a license would create a violation of this subchapter, the Director shall provide written notice to the Operator that the Shelter license is suspended, revoked, or denied a transfer. The written notice shall include the reasons for the revocation, suspension, or denial of a transfer, and shall be sent by certified letter, return receipt requested, to the most current address listed in the affected Operator's file. Such notice shall include information regarding the right

to appeal the decision. Any decision by the Director to suspend, revoke, or deny the transfer of any license issued hereunder shall remain in abeyance until all appeals are exhausted or the time for filing the initial appeal from the Director's decision under subsection B. hereof has expired.

- B. Upon receipt of a decision from the Director to suspend, revoke, or deny the transfer of a license, the Operator affected thereby shall have ten business days from the date of receipt of said notice to appeal the Director's decision by notifying the Director in writing of the basis for said appeal. The notice of appeal may be hand delivered to the Director or sent certified mail, return receipt requested. Unless a timely notice of appeal is received, the decision of the Director shall be final.
- C. When the Director receives a notice of an appeal, the Director shall schedule a time and date for the appeal to be heard before the Code Enforcement Board and such hearing shall be held within 30 calendar days of the date the Director receives the notice of appeal. The Director shall notify the appellant in writing of the hearing date and may send such notice by regular first class mail. The appellant may request an alternate hearing date but in no event shall it be more than 30 days after the originally scheduled date.
- D. At the hearing on any license suspension, revocation, or denial of license transfer, the Operator shall have the right to counsel, present evidence and offer testimony by witnesses. The hearing shall be transcribed. The Board shall render written findings within 20 days of its oral decision. The Board's decision will be final unless appealed.
- E. Any party adversely affected by the Code Enforcement Board's decision may appeal it to the Jefferson Circuit Court within 30 days of the date the Board issues its written findings. The party appealing the Board's decision will be responsible for the cost of preparing the transcript which, along with evidence presented and the written findings of the Board, shall constitute the record on appeal. The decision of the Board shall be effective during the pendency of the appeal unless stayed by a court of competent jurisdiction.

Section 10. ENFORCEMENT.

- A. In addition to the penalties provided in §10, the Director is authorized to enforce the provisions of this chapter through declaratory, injunctive and other civil actions filed in any court of competent jurisdiction.
- B. The Director has the authority to issue rules and regulations for the implementation of this Ordinance. Written notice of the issuance of any

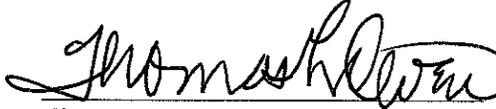
rules and/or regulations concerning the implementation of this ordinance shall be sent by first class mail to all license holders ten days prior to the date they become effective. The rules and regulations shall be available to the public through the Department of Codes and Regulations and online at the Louisville Metro website.

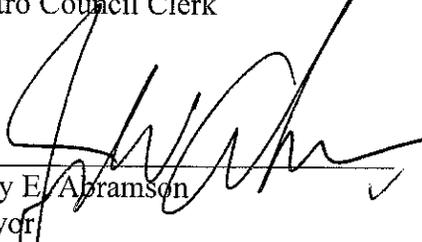
Section 11. PENALTIES.

- A. Any person who operates a Shelter without a license as provided in this chapter shall be issued a citation by an enforcement officer designated by the Director, and ordered to cease operations until a valid license is obtained. Enforcement of violations shall occur in accordance with §§ 32.275 et seq., in administrative proceedings before the Louisville Metro Code Enforcement Board, which shall be authorized to impose an administrative penalty of not less than \$500, nor more than \$1,000, per day for each day that a Shelter is operated without a valid license. Each day of such violation(s) shall constitute a separate offense.
- B. Any person licensed to operate a Shelter who violates the provisions of this ordinance shall be subject to having the license revoked, and may be fined not less than \$100, nor more than \$1,000, per offense. Each day of such violation(s) shall constitute a separate offense.

Section 12: This Ordinance shall take effect upon its passage and approval.


 Kathleen J. Herron
 Metro Council Clerk


 Thomas L. Owen
 President of the Council


 Jerry E. Abramson
 Mayor

Approved: 11-8-10
 Date

APPROVED AS TO FORM AND LEGALITY:

MICHAEL J. O'CONNELL
JEFFERSON COUNTY ATTORNEY

**LOUISVILLE METRO COUNCIL
 READ AND PASSED**
November 4, 2010

BY: 