

AGENDA

Ad Hoc on Housing and Resident Safety AGENDA FOR JULY 8, 2022 AT 8:30 AM



Lansing City Hall, City Council Conference Room
124 W. Michigan Avenue, 10th Floor

To provide input or ask questions on any item that is listed on the agenda,
members of the public may contact the City Council at city.council@lansingmi.gov or (517) 483-4177 prior to the meeting.

Councilmember Spitzley, Chairperson
Councilmember Wood, Vice Chairperson
Councilmember Brown, Member

1. **Call to Order**
2. **Roll Call**
3. **Minutes**
 - A. June 24, 2022
4. **Public Comment on Agenda Items (Up to 3 Minutes)**
5. **Presentations:**
 - B. City of Lansing Economic Development and Planning - Form Based Code Residential
 - C. Real Estate Association- Craig Puckett
 - D. Home Builders Association of Greater Lansing
6. **Discussion/Action:**
 - E. ORDINANCE Discussion- Updates to Chapter 297- Human Rights Ordinance
 - F. DISCUSSION - Recommendations to Council
7. **Other**
8. **Adjourn**

Persons with disabilities who need an accommodation to fully participate in these meetings should contact the City Council Office at 517-483-4177 (TTY 711) 24 hour notice may be needed for certain accommodations. An attempt will be made to grant all reasonable accommodation requests.

DRAFT



Minutes
Ad Hoc on Housing and Resident Safety
Friday, June 24, 2022 @ 8:30 a.m.
City Council Conference Room

CALL TO ORDER

Council Member Wood called the meeting to order at 8:30 a.m.

PRESENT

Council Member Spitzley, Chair
Council Member Wood, Vice-Chair
Council Member Brown, Member

OTHERS PRESENT

Sherrie Boak, Council Office Manager
Jim Smiertka, OCA
Belinda Fitzpatrick
Norma Bauer

MINUTES

MOTION BY COUNCIL MEMBER BROWN TO APPROVE THE MINUTES FROM JUNE 3, 2022 AS PRESENTED. MOTION CARRIED 3-0.

PUBLIC COMMENT

Ms. Fitzpatrick spoke on her Master Gardner certificate and naturalized gardening on her property. Ms. Fitzpatrick asked for Council to consider educating residents and code compliance on residential lots being used for gardens plots and landscaping. She admitted that she has discussions with Code Compliance in the past on issues on her property. Council Member Wood noted this naturalization of lots has come up before, and after this was explained to Code officers years ago, but there are newer officers, so it would make sense to train code officers maybe from MSU horticulture to provide details. Council Member Wood added that there is also a concern with line of site if people pull in and out of driveways and on corners.

Ms. Bauer spoke on sustainable housing and asked if there is a way to address regulations on small homes. Ms. Bauer provided examples of small houses in the City where there is a market for buying small homes. Council Member Wood spoke on the zoning in the past that prohibited small homes, noting with the new zoning there is options. Council Member Wood then asked Council Member Spitzley to have Ms. Stachowiak attend a future meeting to speak to the options. Council Member Spitzley confirmed that idea, and Ms. Bauer asked for builders or real estate agents could attend so they can hear what is now allowed with the new zoning the Committee spoke of.

PRESENTATIONS

"Community Court" – Judge Simmons

Per communications with court staff and Council staff during this meeting, Judge Simmons was not able to attend. Ms. Boak updated the Committee that an email was sent asking the Courts for what they would be interested in doing to update the Committee on a future presentation.

Discussion/Action

The Committee spoke on agencies to invite for future meetings before they made their final recommendations. Council Member Wood recapped that at earlier meetings the OCA was asked to look into amending the Human Rights Ordinance to address the concern the Committee heard from Nation Outside. The Committee asked to invite Ms. Stachowiak with Economic Development and Planning to speak on Form Based Code and small houses, along with the Realtors Association to the July 8, 2022 meeting.

Council Member Spitzley about the status from the last meetings on an ordinance for enforcement tenant relocation assistance. Council Member Wood stated the OCA opinion was that an ordinance or letter to the legislation was not the best avenue, but instead Council did a resolution that was adopted June 13, 2022. This addressed concerns that the Committee had in the past. Council Member Spitzley asked about the concern, and Mr. Smiertka stated OCA was not comfortable with the City of Jackson and Grand Rapids ordinances for enforcement.

Mr. Smiertka asked for details on the request OCA was supposed to be working on with the Human Rights Ordinance. Council Member Wood recapped the discussion when Nation Outside was present at a meeting and spoke about the concerns that someone's criminal past is considered first when attempting to rent. They want the Human Rights Ordinance to be amended to address this concern, and the criminal history not to be considered first in tenant/landlord transactions.

Council Member Spitzley asked if there is a mechanism in place to enforce penalties daily for unsafe conditions in a home. Mr. Smiertka stated it is under administrative code as civil infractions and there is a provision in there for subsequent fines.

Council Member Spitzley encouraged the Committee to strongly suggest a document that the Housing Ombudsman utilizes to educate the residents on what they should know before they sign a lease. Council Member Brown asked if the Housing Ombudsman is referring residents to the free outside legal services before they are in eviction court. Council Member Wood encouraged the Committee to make a recommendation that they believe the person in that position should be addressing that, along with the education piece when they do rental seminars, where they talk about "if your landlord doesn't do something, how do they address it". Council Members Spitzley and Wood both spoke briefly on what the intention of the Housing Ombudsman when it was created.

Council Member Brown updated the Committee on concerns he has heard from residents in Lansing Housing Commission properties and asked the Committee if there is a role the City has. Council Member Wood stated that any issues with Lansing Housing Commission would have to be taken up with their Board and tenant representative. Council Member Spitzley adding that the Board hires the Director and Council in the past have encouraged the Board to hold their meetings at the common area rooms in their residential facilities so the residents can attend. She also suggested Council Member Brown refer the residents to the Lansing Housing Commission website for their Board meeting schedule.

Council Member Brown asked if residents are asked to or have to move can the Housing Ombudsman find them housing. Council Member Spitzley stated that the intention for that was

there when the position was created, but the current position is not doing what Council had intended when they created the position. When this positions as created from the HRCS Director, they indicated someone needed to have legal background, and if there were large complexes that had serious problems but would be a conduit with a list of potential landlords that work with people with vouchers, section 8 that they could recommend.

No other topics of discussion.

Adjourn

Adjourned at 9:11 a.m.

Submitted by,

Sherrie Boak, Recording Secretary

Lansing City Council

Approved by the Committee

Footnotes:

--- (30) ---

Editor's note— Ordinance No. 1120, § 1, adopted December 18, 2006, added a new chapter 297 to read as herein set out. Formerly, such chapter pertained to human relations and was repealed by Ord. No. 957, 11-25-96.

297.01. - Intent.

It is the intent of the city that no person be denied the equal protection of the laws; nor shall any person be denied the enjoyment of their civil rights or be discriminated against because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity or expression, veteran status or HIV status, source of income, ancestry, student status, housing status, political affiliation or belief, or service in armed forces in sovereign nations as all forms of discrimination adversely affect Lansing citizens and the quality of life and opportunities available to all people.

Nothing herein contained shall be construed to prohibit any cause of action based on any other Lansing, federal or state law.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16)

297.02. - Definitions.

As used in this Chapter, the following words and phrases have the following meanings:

Age: Chronological age as measured from date of birth.

Ancestry: The nationality, ethnicity, or family lineage from which a person is a descendent.

Bona fide occupational qualifications: Characteristics that are reasonably necessary for the proper performance or evaluation of an occupation or the normal operation of a business.

Bullying: Repeated, persistent, willful, aggressive behavior directed at another person that is intended to cause harm to the other person's body, emotions, self-esteem or reputation.

Contractor: A person who by contract furnishes services, materials or supplies. "Contractor" does not include a person who is merely a creditor or debtor of the City, such as those holding the City's notes or bonds or persons whose notes, bonds or stock are held by the City.

Discriminate/discrimination: To make a decision, offer to make a decision or refrain from making a decision in whole or in part on the actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity or expression, veteran status or HIV status, source of income, ancestry, student status, housing status, political affiliation or belief, or service in armed forces in sovereign nations. Discrimination based on sex includes sexual harassment, which means unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

- (1) Submission to such conduct or communication is made a term or condition or condition either explicitly or implicitly to obtain employment, public accommodation or housing.
- (2) Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or housing.

- (3) Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment accommodations or housing, or creating an intimidation, hostile, or offensive employment, public accommodation: housing environment.

Employee: A person, paid or unpaid, performing work duties for an employer, including an applicant for paid or volunteer employment, or a participant in a training or apprenticeship program.

Employer: Any person with a business located within or doing business within the corporate City limits of Lansing or doing business with the City of Lansing who employs or is seeking to employ five or more employees, including any agent of that person or entity.

Employment: The act of an employee performing work duties for an employer.

Employment agency: Any person, paid or unpaid, who regularly undertakes to procure, refer, recruit, or place an employee with an employer, including any agent of that person.

Familial status: The state of being in a family or functional family.

Family: Any one of the following:

- (1) An individual who is pregnant; or
- (2) Two or more individuals related by blood within four degrees of consanguinity, marriage, adoption, or in a foster care relationship.

Functional family: A group of individuals who do not meet the definition of "family," living together as a single housekeeping unit and intending to live together as a single housekeeping unit for the indefinite future. "Functional family" does not include a fraternity, sorority, club, hotel, or other group of persons whose association is temporary or commercial in nature.

Gender identity or expression: A person's gender-related self-perception, appearance, expression or behavior, regardless of that person's biological sex at birth.

Harass/harassment: Physical conduct or communication directed at another person intentionally for the purpose or effect of creating an intimidating, hostile, or offensive environment with regard to employment, places of public accommodation, public services, or housing.

Hostile work environment: This definition adopts by reference the definition of this term under Michigan law and includes that a hostile work environment exists when there is persistent and pervasive discriminatory conduct or behavior in the place of work that is unwelcome and offensive to an employee or group of employees of a protected class status, that is severe enough to disrupt, beyond a reasonable degree, the work of the targeted employee or employees.

Housing status: The state of having or not having a fixed residence, including, but not limited to, the state of owning or renting (with or without receiving public housing assistance) a place to live. This includes a person's type of dwelling or shelter, including, but not limited to, single family or multiple family homes, apartments, condominiums, rooming houses, housing cooperatives, hotels, motels, public or subsidized housing units retirement homes, nursing homes, and temporary or long-term shelters.

Irrelevant characteristic/irrelevant characteristics: Any status or condition which is unrelated to a person's ability to:

- (1) Safely and competently perform specific duties of a particular job or profession, or qualify for promotion,
- (2) Use or benefit from a place of public accommodation,
- (3) Use or benefit from public services, or
- (4) Acquire, rent, or maintain property.

"Irrelevant characteristics" do not include bona fide occupational qualifications but do include a person's actual or perceived race, religion, ancestry, national origin, color, sex, age, height, weight, student status, marital status, familial status, housing status, veteran status, political affiliation or belief sexual orientation, gender identity or expression, mental or physical limitation, and source of income.

Labor organization: Any union, committee, association, or organized group of employees that exists primarily for the purpose of dealing with employment concerns, grievances, wages, labor disputes, rates of pay, hours of work, or other terms or conditions of employment.

Marital status: The state of being single, married, separated, divorced, in a functional family, or a surviving spouse.

Mental limitation: Actual or perceived disability or handicap, as those terms are defined in the Michigan Persons With Disabilities Civil Rights Act, or limitation regarding mental capabilities unrelated to a person's ability to:

- (1) Perform a particular job or profession or qualify for promotion,
- (2) Use or benefit from a place of public accommodation,
- (3) Use or benefit from public services, or
- (4) Acquire, rent, or maintain property.

"Mental limitation" includes, but is not limited to, developmental disabilities, psychological conditions, and the use by any person of adaptive devices, aids, or medication to mitigate such limitations. "Mental limitation" does not include any condition caused by the current use of an illegal or controlled substance or alcohol.

National origin: The country where a person or a person's ancestors were born. Discrimination against a person based on national origin shall include discrimination against nonnaturalized citizens and persons for whom English is a second language.

Perceived: As used in this chapter "perceived" refers to the perception of the person who acts, and not to the perception of the person against whom the action is taken.

Person/persons: One or more individuals, partnerships, associations, or organizations; labor organizations, labor unions, or joint apprenticeship committees; businesses, companies, or corporations; legal representatives, receivers, trusts, or trustees; unincorporated organizations; employers or employment agencies; employees or contractors; realtors, real estate brokers, salespersons, or leasing agents; the City of Lansing, agencies of the city, and any recipient of city funds or any other legal or commercial entity.

Physical limitation: Actual or perceived disability or handicap, as those terms are defined in the Michigan Persons With Disabilities Civil Rights Act, or limitation regarding physical capabilities and human motor performance unrelated to a person's ability to:

- (1) Safely and competently perform specific duties of a particular job or profession or qualify for promotion,
- (2) Use or benefit from a place of public accommodation,
- (3) Use or benefit from public services, or
- (4) Acquire, rent, or maintain property.

"Physical limitation" includes, but is not limited to, blindness or partial sightedness, deafness or hearing impairment, muteness, partial or total absence of any body part(s), speech impairment, motor impairment, and the use by any person of adaptive devices or aids to mitigate such limitations.

"Physical limitation" does not include any condition caused by the current use of an illegal or controlled substance, or alcohol.

Place of public accommodation: A place open to the general public that is a facility or business of any educational, governmental, nonprofit, health, day care, entertainment, cultural, recreational, refreshment, transportation, or human services, financial, or other business of any kind, whose goods, services, facilities, activities, privileges, or advantages are extended, offered, sold, rented, leased, or otherwise made available to the public.

Public services: Goods, services, facilities, activities, privileges, or advantages extended, offered, sold, rented, leased, or otherwise made available to the public through a department, agency, board, or commission owned, operated, or managed by or on behalf of the state or a political subdivision of the state or a nonprofit organization, including tax-exempt private agencies, which receive financial support through the solicitation of the general public or through governmental subsidy of any kind.

Real property: Any habitable or potentially habitable land or building, as used in this definition "habitable building" includes, but is not limited to, single and multiple family homes, apartments, condominiums, housing cooperatives, mobile homes or trailers, mobile home or trailer parks, and tenements, including any lease or interest in real property.

Religion: All aspects of religious observance, dress, practice, and belief.

Sexual orientation: A person's sexual identity in relation to the gender to which they are attracted; the state of being heterosexual, homosexual, bisexual, or asexual.

Sex: The condition of being male, female or intersex. Discrimination based on sex includes sexual harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

- (1) Submission to such conduct or communication is made a term or condition either explicitly or implicitly to obtain employment, public accommodation, or housing; or
- (2) Submission to or rejection of such conduct or communication by a person is used as a factor in decisions affecting such person's employment, public accommodation, or housing; or
- (3) Such conduct or communication has the purpose or effect of substantially interfering with a person's employment, public accommodation, or housing, or creating an intimidating, hostile, or offensive employment, public accommodation, or housing environment.

Student status: The current state of pursuing a diploma/degree at any educational institution.

Source of income: Any legal source from which a person obtains money.

Veteran status: Having served in any unit of the United States Armed Forces or their reserve components, including the National Guard and the Coast Guard.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16)

297.03. - Discriminatory employment practices.

- (a) Except as otherwise provided, no employer shall discriminate against any other person with regard to recruiting, referring, hiring, contracting, compensating, grading, classifying, promoting, demoting, disciplining, terminating or otherwise restricting or conditioning terms and privileges of employment.
- (b) Except as otherwise provided, no labor organization or apprentice program shall discriminate by limiting membership, conditions of membership, privileges of membership or termination of membership of any person in any labor union or apprentice program.
- (c) Except as otherwise provided, no person shall discharge, terminate, expel, or otherwise discriminate against any

other person because that person has opposed any discriminatory practice forbidden by this chapter or has filed a complaint, testified, or assisted in any proceeding regarding any discriminatory practice forbidden by this chapter.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16)

297.04. - Discriminatory public accommodation practices.

- (a) No person shall discriminate against any other person by withholding, denying, curtailing, or otherwise limiting the full use and enjoyment of places of public accommodations.
- (b) No person shall prohibit a breastfeeding mother from or segregate a breastfeeding mother within any place of public accommodation where she and the child would otherwise be authorized to be.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16)

297.05. - Discrimination in provision of public services and health care.

- (a) No person shall discriminate against any other person in providing information, offering access, or making referrals regarding public services, or by withholding, denying, curtailing, or otherwise limiting the full use of and benefit from public services.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16)

297.06. - Discriminatory housing practices.

- (a) No person shall discriminate in referring, leasing, selling, renting, showing, advertising, pricing, offering, inspecting, listing, or otherwise making available any real property, including discrimination in providing information and receiving or communicating a bona fide offer on any real property.
- (b) No person shall discriminate in (a) the application, conditions, or granting of mortgages, (b) no person shall discriminate in (a) the application, conditions or granting of mortgages, or other financing, the offer, conditions, or sale of home-owner or rental insurance, or (c) the contracting of construction, rehabilitation, maintenance, repair, or other improvement of any housing facility.
- (c) No person shall refuse to lend money for the purchase or repair of any real property or insure any real property solely because of the location in the city of such real property.
- (d) No person shall promote any sale, rental, lease, sublease, exchange, transfer, or assignment of real property by representing that changes are occurring or will occur in an area with respect to any irrelevant characteristics.
- (e) No person shall indicate, communicate, or otherwise represent to another person that any real property or interest therein is not available for inspection, sale, rental, or lease knowing in fact it is available, including failing to make a person aware of a real property listing, refusing to permit inspection of real property, and representing that a property has been sold when in fact it has not.
- (f) No person shall offer, solicit, accept, use or retain a listing of real property or an interest therein with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16)

297.07. - Other prohibited practices.

- (a) No person shall adopt, enforce, or employ any policy or publish, circulate, post, mail, or otherwise broadcast any

statement, advertisement, sign, or notice or use a form of application or make a record of inquiry which directly or indirectly discriminates or indicates discrimination in providing employment, public accommodations, public services, housing or health care.

- (b) No person shall discriminate in the publication or distribution of advertising material, information, or solicitation regarding employment, public accommodations, public services, housing or health care.
- (c) No person shall coerce, intimidate, threaten, harass, retaliate against, bully or interfere with any person:
 - (1) In the exercise or enjoyment of, or on account of one's having exercised or enjoyed, or on account of one's having aided or encouraged any person in the exercise or enjoyment of, any right protected in this chapter; or
 - (2) Making a complaint or assisting in an investigation regarding a violation or alleged violation of this chapter.
- (d) No person shall require, request, conspire with, assist, bully or coerce another person to:
 - (1) Discriminate in any manner prohibited by this chapter; or
 - (2) Intimidate, threaten, harass, or retaliate against another person for making a complaint or assisting in an investigation regarding an alleged violation of this chapter.
- (e) No person shall provide false or misleading information to any authorized person investigating a complaint regarding a violation or alleged violation of this chapter, or sign a complaint for a violation of this chapter based upon false or substantially misleading information.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16)

297.08. - Exceptions.

Notwithstanding anything contained in this chapter, the following practices shall not be violations of this chapter:

(a) *Employment;*

- (1) This chapter does not apply to the employment of any person by his/her parent, spouse, or child.
- (2) It is permissible to discriminate in hiring and selecting between one person and another based on bona fide occupational qualifications. Upon a claim of discrimination, the Claimant shall have the burden of making a prima facie showing that a qualification or selection is based on an irrelevant characteristic. An employer shall then have the burden of establishing that a qualification or selection criterion is reasonably necessary for the claimant to perform in the normal operation of the business. The Claimant will then have the burden of showing that such qualification or criterion is mere pretext.
- (3) It is permissible to give preferential treatment in hiring to veterans and their relatives as required by federal or state law.
- (4) It is permissible to engage in a bona fide effort to establish, maintain, or improve employment opportunities for persons protected from discrimination and harassment under this chapter.
- (5) It is permissible to consider legal source of income as a bona fide occupational qualification where the employment involves non-compete agreements, trade secrets, or similar legally recognized restraints on employment based on source of income.

(b) *Public accommodation and public services;*

- (1) It is permissible to restrict the use of shower or changing areas in health clubs or recreational facilities on the basis of sex when separate and private shower or changing areas do not exist.
- (2) It is permissible to refuse to admit to a place of public accommodation serving alcoholic beverages a person under the legal age for purchasing alcoholic beverages.

- (3) It is permissible to refuse to admit persons under 18 years of age to a business providing entertainment or sell merchandise, which the operator of the business deems unsuitable for minors, or which is a "sexually explicit n defined by Section 3 of Act 33 of the Public Acts of 1978, codified at MCL 722.673.
- (4) It is permissible for an educational institution to limit the use of its facilities to those affiliated with such institution.
- (5) It is permissible to provide discounts on products or service to students, minors, and senior citizens.
- (6) It is permissible to restrict participation on athletic teams or in athletic events on the basis of age.
- (c) *Housing*:
 - (1) It is permissible to discriminate in any arrangement for the sharing of a single unit dwelling, the remainder of which is occupied by the owner or a member of his/her immediate family.
 - (2) It is permissible for the owner of a dwelling devoted entirely to the housing or accommodation of a single sex to restrict occupancy and use on the basis of sex.
 - (3) This chapter does not require any person who does not participate in the Federal Section 8 Housing Assistance Program to accept any subsidy, payment assistance, voucher or contribution in connection with such program, or to lease or rent to any tenant or prospective tenant who is relying on such a subsidy as payment for at least part of the rent.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16)

297.09. - Other exceptions as required by law.

This chapter shall not be construed to limit rights granted by State or Federal Constitution, law, rule or regulation, including but not limited to, the following:

- (a) It is permissible to discriminate in employment, public accommodation, public services, housing, and health care based on a person's age, income level, or mental or physical limitations when such discrimination is required or allowed by Federal or State Constitution or local law, including but not limited to the City Charter.
- (b) It is permissible for a governmental institution to restrict access to any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to Federal or State Constitution or local law, including but not limited to the City Charter.
- (c) This chapter shall not be read to prohibit or interfere with the exercise of a person's first amendment rights.
- (d) It is permissible for a religious organization or institution to restrict employment opportunities, housing facilities, or accommodations that are operated as a direct part of religious activities to persons who are members of or who conform to the moral tenets of that religious institution or organization.
- (e) It is permissible to limit occupancy in a housing development or to provide public accommodations or employment privileges or assistance to persons of low income, over 55 years of age, or who have a physical or mental limitation.
- (f) It is permissible to discriminate based on a person's age when State, Federal, or local law requires it.
- (g) It is permissible to refuse to enter into a contract with an unemancipated minor.
- (h) Nothing in this chapter shall affect, replace, or diminish the duties, obligations, rights, or remedies as otherwise provided by any union contract, collective bargaining agreement, or Federal or State Constitution or local law, including but not limited to the City Charter, which shall control over this chapter.
- (i) This chapter shall not be read to require an employer, whether public or private, to provide benefits to

unmarried domestic partners in contravention of Article I, Section 25 of the Michigan Constitution.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16; Ord. No. 1239, § 1, 11-19-18)

297.10. - Complaints.

- (a) Any person claiming to be discriminated against or harassed in violation of this section may file with the Human Relations and Community Services Department ("Department") a complaint, in writing, setting forth with reasonable specificity the person or persons alleged to have violated this chapter, the specific nature of the violation and the date(s) of the alleged violation. A person filing a complaint must do so within 180 days of the incident forming the basis of the complaint.
- (b) To the extent permitted by law, all written complaints of discrimination in employment, public accommodation, public services, and housing received by the Department shall be kept confidential.
- (c) Upon receipt of the complaint the Department shall:
 - (1) Be responsible for investigating and determining whether there is sufficient evidence of a violation of this chapter. If the Department determines that sufficient evidence of a violation exists, Department shall:
 - i. Contact the claimant to discuss its concerns and schedule an informal conference (estimated time within 45 days);
 - ii. Ensure there are no undue burdens placed on a claimant, which might discourage filing of a discrimination complaint;
 - iii. Commence and complete the complaint investigation in a timely manner.
- (e) The Office of the City Attorney shall be responsible for promulgating and publishing rules and guidelines for processing, investigating, mediating/conciliating, and recommending resolution of complaints.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16; Ord. No. 1239, § 1, 11-19-18)

297.11. - Investigation and hearing.

- (a) During an investigation, Department may request the appearance of witnesses and the production of books, papers, records or other documents that may be relevant to a violation or alleged violation of this chapter.
- (b) If the Department determines that the complaint and preliminary evidence gathered indicates a violation of a section in this chapter, the City Council shall designate a hearing officer to conduct a hearing within 90 days after completion of the investigation. The person who is alleged to have committed a violation (the "respondent") and the claimant shall be sent by regular mail at least 14 days in advance, notice of the complaint, scheduled date and time of the hearing and a request for each to appear. At the hearing, testimony may be taken. All testimony shall be on the record, under oath and either recorded or transcribed. Both claimant and respondent shall be allowed to testify, present evidence, bring witnesses to testify, and cross examine all witnesses at the hearing. Formal rules of evidence shall not apply.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16; Ord. No. 1239, § 1, 11-19-18)

297.12. - Findings and recommendations.

The Hearing Officer shall make findings of fact based on the testimony and evidence introduced at the hearing and shall recommend such relief as the Hearing Officer deems appropriate. The claimant and respondent shall have the right to appeal the Hearing Officer's findings and recommendations in writing within 30 days to the President of City Council. On appeal, the hearing record and Hearing Officer's findings and recommendations shall be reviewed by the President of City Council who

shall approve, approve with modification, or disapprove of the findings and recommendations. After the City Council President's review, the final findings and recommendations shall be served by regular mail on the claimant and respondent. The parties shall have 30 days to comply with such findings and recommendations, unless otherwise provided by the Hearing Officer or, in the event of an appeal, City Council President.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16; Ord. No. 1239, § 1, 11-19-18)

297.13. - Available recommendations and remedies.

If a violation of this chapter is found, the Hearing Officer may recommend that remedial action be taken. The recommended remedies may include, but are not limited to one or more of the following:

- (a) Ceasing the illegal conduct cited in the complaint and taking steps to alleviate the effect of such illegal conduct;
- (b) Providing that the Respondent apologize to the Claimant;
- (c) Closing the matter based upon a mediation/ conciliation agreement of the Claimant and Respondent;
- (d) Requiring the respondent pay damages for injury or loss;
- (e) Hiring, reinstating, or promoting the Claimant, with or without back pay, or providing such fringe benefits as the Claimant may have been denied;
- (f) Selling or leasing of housing or dwelling unit in question to the Claimant;
- (g) Admitting the Claimant to a place of public accommodation or extending full and equal use and enjoyment of said place of public accommodation;
- (h) Paying some or all of the Claimant's costs, costs incurred at any stage of review;
- (i) Posting the explanation of and requirements for compliance with this chapter;
- (j) Dismissing the complaint; and
- (k) Imposing costs against a Claimant for a frivolously filed claim.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16)

297.14. - Conciliatory agreements.

In cases involving alleged violations of this chapter, the hearing officer may have the parties enter into agreements whereby the involved parties agree to take steps that will terminate continued discriminatory practices and/or compensate for past and future injury. Violations of such agreements shall be violations of this chapter.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16)

297.15. - Civil infractions.

- (a) A violation of any provision of this chapter is a civil infraction and shall be prosecuted by an Independent Prosecutor's office. Each day upon which a violation occurs shall constitute a separate and new violation.
- (b) If the Hearing Officer determines that a violation of this chapter has occurred and the respondent does not comply with the Hearing Officer's recommendation within the specified time period, either the complainant or the Hearing Officer may refer the matter to a city or County Prosecutor, the Michigan Department of Civil Rights, the United States Department of Justice, Department of Housing and Urban Development, or other appropriate enforcing agency.
- (c) A violation of a prohibited act in this chapter is designated a municipal civil infraction, is not a crime, and shall not

be punishable by imprisonment.

(d) Schedule of civil fines. The violation shall be according to the following schedule:

- (1) First violation\$150.00
- (2) Second violation250.00
- (3) Third (or any subsequent) violation500.00

(e) Continuing violation.

- (1) For an offense that is a single and discrete occurrence, a single violation shall accrue (for example, a single act of harassment like a racial epithet). Subsequent single and discrete occurrences shall result in additional violations according to the above schedule (for example, two separate instances of racial epithets would constitute a first and second violation).
- (2) For offenses that are continuing in nature, rather than single and discrete, the first violation shall accrue with the first day of the occurrence, and subsequent violations shall accrue for each additional day of that occurrence (for example, an impermissible hiring practice that continues each day on an ongoing basis).
- (3) For continuing violations under subsection (e)(2), the day of the first occurrence shall be measured from the day of service of the complaint.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16)

297.16. - Private actions.

Any person who is the victim of discrimination in violation of this chapter retains his or her right to pursue any and all other legal action to which the person may be entitled in addition to the remedies available under this chapter. Nothing in this chapter shall be construed to limit rights granted under the laws of the State of Michigan or the United States.

(Ord. No. 1120, § 1, 12-18-06; Ord. No. 1203, § 1, 9-26-16)

2022

ORDINANCE NO.

An ordinance of the City of Lansing, Michigan, to amend the Lansing Codified Ordinances by adding sections 296.20 through 296.31 to provide for fair chance housing in relation to the timing of criminal background checks for prospective tenants of rental dwellings in the City of Lansing.

THE CITY OF LANSING ORDAINS:

Section 1. That Chapter 296 Section 296.20 through 296.31 of the Code of Ordinances of the City of Lansing, Michigan be and is hereby amended to read as follows:

296.20 – Fair Chance Access to Rental Housing; Scope and Purpose

(a) Purpose. The purpose of Sections 296.20-296.31 is to enhance the health, safety, and general welfare of the public by ensuring citizens with arrest and conviction records have a fair opportunity to secure housing through regulating the timing of criminal background checks as part of the tenant screening process, thereby facilitating re-integration into society, reducing recidivism and its associated criminal justice and societal costs. Barriers to opportunities for people with arrest or conviction records increase recidivism and jeopardize the safety of the public, disrupt the financial and overall stability of affected families and communities, and impede the City from achieving its maximum potential of economic growth.

(b) Scope.

(1) Sections 296.20-296.31 shall not require a housing provider to give preference to anyone or to rent to an otherwise unqualified person, regardless of the individual's

1 arrest or conviction record; limit a housing provider's ability to choose the most
2 qualified and appropriate candidate from applicants for housing; or create or
3 impose a duty, or to create a private civil cause of action against the City, its elected
4 officials, appointees, officers, agents, or employees.

5
6 **296.21. Definitions.**

7 For purposes of Sections 296.20-296.31, the words and phrases shall have the following
8 definitions:

9 *Administering agency* means the Department of Human Relations and Community
10 Services (HRCS).

11 *Adverse action* means the following actions of a landlord related to the landlord's
12 rental property: to evict an individual; fail or refuse to rent or lease real property to an
13 individual; fail or refuse to continue to rent or lease real property to an individual; fail or
14 refuse to add a household member to an existing lease; or to reduce any tenant subsidy.

15 The adverse action must relate to real property located in the City of Lansing.

16 *Applicant* means an individual applying to rent or lease eligible housing. It also
17 includes an individual applying to be added to an existing lease for eligible housing.

18 *Arrest* means a record from any jurisdiction that does not result in a conviction and
19 includes information indicating that a person has been questioned, apprehended, taken into
20 custody or detained, or held for investigation by a law enforcement, police, or a
21 prosecutorial agency, or charged with, indicted, or tried and acquitted for any felony,

1 misdemeanor, or other criminal offense. Arrest is a term that is separate and distinct from,
2 and that does not include, unresolved arrest as defined in this section.

3 *Background check report* means any criminal history report accessible through the
4 Michigan State Police Internet Criminal History Access Tool (I-CHAT), courts, or by any
5 consumer reporting, or tenant screening, agency, or business.

6 *Conviction* means a record from any jurisdiction, which includes information
7 indicating that a person has been convicted of a felony or misdemeanor, provided, that the
8 conviction is one for which the person has been placed on probation, fined, imprisoned, or
9 paroled. Those matters identified in Section 296.23 of this Code, which a housing provider
10 may not make an inquiry and which they may not base an adverse action, are not
11 considered convictions for purposes of this article.

12 *Conviction history* means information regarding one or more convictions or
13 unresolved arrests, transmitted orally or in writing or by any other means, and obtained
14 from any source, including, but not limited to, the individual to whom the information
15 pertains or a background check report.

16 *Directly-related conviction* means that the conduct for which the person was
17 convicted or that is the subject of an unresolved arrest that has a direct and specific
18 negative bearing on the health, safety, or right to peaceful enjoyment of the premises by
19 persons and includes one or more of the offenses listed in Section 296.24(b) of this Code. In
20 determining whether the conviction or unresolved arrest is directly related to the housing,
21 the housing provider shall consider whether the housing offers the opportunity for the

1 same or similar offense to occur, whether circumstances leading to the conduct for which
2 the person was convicted will recur in the housing, and whether supportive services that
3 might reduce the likelihood of a recurrence of such conduct are available on-site. Those
4 matters identified in Section 296.23(2) of this Code, which a housing provider may not
5 make an inquiry and which they may not base an adverse action, may not qualify as a
6 directly-related convictions.

7 *Dwelling or dwelling unit* means a single unit providing complete, independent living
8 facilities occupied, or intended to be occupied, in whole or in part by one or more persons,
9 including permanent space and provisions for living, cooking, eating, sanitation, and
10 sleeping.

11 *Eligible housing* means any rental property in the City of Lansing required to be
12 registered as a rental property pursuant to this Code.

13 *Evidence of rehabilitation or other mitigating factors* means, but shall not be limited
14 to, a person's satisfactory compliance with all terms and conditions of parole or probation,
15 except inability to pay fines, fees, and restitution due to indigence shall not be considered
16 noncompliance with terms and conditions of parole or probation or both; employer
17 recommendations, especially concerning a person's post-conviction employment;
18 educational attainment or vocational or professional training since the conviction,
19 including training received while incarcerated; completion or active participation in
20 rehabilitative treatment, for example, alcohol or drug treatment; letters of
21 recommendation from community organizations, counselors or case managers, teachers,

1 community leaders or probation or parole officers who have observed the applicant since
2 his or her conviction(s); and the age of the person at the time of the conviction. Successful
3 completion of parole, probation, mandatory supervision, or post-release community
4 supervision shall create a presumption of rehabilitation. Examples of mitigating factors
5 that are offered voluntarily by the person may include, but are not limited to, explanation
6 of the precedent coercive conditions, intimate physical or emotional abuse, or untreated
7 substance abuse or mental illness that contributed to the conviction.

8 *Housing provider* means any entity that owns, master leases, manages, or rents
9 eligible housing in the City of Lansing. Any agent, such as a property management
10 company, which makes tenancy decisions on behalf of the aforementioned entities, shall
11 also be considered a housing provider.

12 *Inquire* means any direct or indirect conduct intended to gather information from
13 or about an applicant, or a potential applicant or candidate, using any mode of
14 communication, including, but not limited to, application forms, interviews, and
15 background check reports.

16 *Person* means any individual, partnership, firm, company, corporation, association,
17 sole proprietorship, limited-liability company, joint venture, estate, trust, or any other legal
18 entity.

19 *Rental property* means a non-owner occupied dwelling unit or units that:

1 (1) Is or are let, or occupied, by persons, including a family member of the
2 owner, pursuant to an oral or written rental contract, or lease, or other oral or written
3 agreement or understanding for occupation, with or without, monetary compensation; or

4 (2) Will be offered for occupancy under an oral or written rental contract or
5 lease, or other oral or written agreement or understanding for occupation, with or without,
6 monetary compensation to any person; or

7 (3) Has or have been advertised to the public or previously registered with the
8 City as rental property.

9 *Unresolved arrest* means an arrest that is undergoing an active pending criminal
10 investigation or trial that has not yet been resolved. An arrest has been resolved if the
11 arrestee was released and no accusatory pleading was filed charging him or her with an
12 offense, or if the charges have been dismissed or discharged by the prosecuting attorney or
13 the court.

14
15 **296.22. Applicability; eligible housing.**

16 Sections 296.20 through 296.31 shall apply to all housing providers with eligible housing as
17 defined in Section 296.21 available for rent or lease located in the City of Lansing.

18
19 **296.23. Prohibition on housing provider inquiring into criminal convictions of applicants**
20 **and their household members until being interviewed or qualified; basis for adverse action.**

21 (a) Except as provided in Section 296.24 of this Code, housing providers shall not:

1 **(1) Inquire about or require applicants to disclose conviction history as part of**
2 **tenant screening process until the housing provider:**

3 **a. Has determined the applicant is qualified to rent the housing unit**
4 **under all of the housing provider's criteria not related to potential past**
5 **criminal convictions or an unresolved arrest; and**

6 **b. Has provided to the applicant a conditional lease agreement that**
7 **commits the unit to the applicant as long as the applicant passes the**
8 **conviction history review.**

9 **(2) Base an adverse action in whole or in part:**

10 **a. On an unresolved arrest or an arrest not leading to a conviction;**

11 **b. On participation in or completion of a diversion or a deferral of**
12 **judgment program;**

13 **c. On a conviction that has been judicially dismissed, expunged, voided,**
14 **invalidated or otherwise rendered inoperative by a court of law or by**
15 **executive pardon.**

16 **d. On a conviction or any other determination or adjudication in the**
17 **juvenile justice system, or information regarding a matter considered in or**
18 **processed through the juvenile justice system;**

19 **e. On a misdemeanor conviction that is more than five years old,**
20 **calculated from the date of sentencing; or**

1 **f. On information pertaining to an offense or violation other than a**
2 **felony or misdemeanor, such as a civil infraction.**

3 **(3) A housing provider shall not include questions regarding or require**
4 **applicants to disclose on any housing application the facts or details of any**
5 **conviction history or any matter identified in Subsection (2) of this section.**

6 **(b) It is the responsibility of a housing provider to ensure that its employees and agents**
7 **comply with this article.**

8
9 **296.24. Exceptions to prohibition.**

10 **(a) This article does not limit the right of a housing provider to take any of the**
11 **following actions:**

12 **(1) Conduct conviction history or obtain background check reports on**
13 **applicants where there is a statutory duty to do so; or**

14 **(2) Notify applicants that applicable laws, including those set forth in Subsection**
15 **(b) of this section will disqualify an individual with a particular conviction history**
16 **from eligibility for tenancy.**

17 **(b) Regarding applicants and their household members, a housing provider may base**
18 **an adverse action in whole or in part on directly-related convictions that includes one or**
19 **more of the following:**

20 **(1) Any conviction where state or federal law prohibits the applicant from being**
21 **eligible for public housing; or**

1 (2) Any conviction that leads to the applicant becoming a lifetime registered sex
2 offender; or

3 (3) Any conviction for violent or drug-related felonies; or

4 (4) Conviction for felonies committed within the last ten years or imprisonment
5 for felonies within the last five years; or

6 (5) Any conviction for crimes against landlords, management agents, their
7 employees or agents, or other tenants or real property; or

8 (6) Any conviction to any crime involving arson; or

9 (7) Any conviction to any crime involving metal theft, vandalizing, or otherwise
10 damaging real property.

11 (8) any other conviction the housing provider determines is appropriate for adverse
12 action.

13 296.25

14 ~~269.25~~. Procedures for use of evidence of rehabilitation or other mitigating factors in
15 housing decisions; requirement for individualized assessment.

16 (a) Consistent with the procedures in this section and subject to state and federal law, a
17 housing provider shall offer the applicant a reasonable opportunity to present evidence of
18 rehabilitation or other mitigating factors related to convictions within the previous five
19 years.

1 **(b) In reviewing an applicant's criminal history and making a decision related to**
2 **eligible housing based on such history, a housing provider shall conduct an individualized**
3 **assessment, considering only:**

4 **(1) Convictions that warrant denial based on local, state, or federal law; and**

5 **(2) Time that has elapsed since the conviction; and**

6 **(3) Whether it is a directly-related conviction, as defined in Section 296.21 of this**
7 **Code, that has direct and specific negative bearing on the safety of persons or real**
8 **property; and**

9 **(4) Any evidence of inaccuracy or evidence of rehabilitation or other mitigating**
10 **factors presented by the applicant.**

11 **(c) If a housing provider intends to base an adverse action related to eligible housing on**
12 **an item or items in the applicant's conviction history, prior to taking any adverse action the**
13 **housing provider shall provide the applicant with a copy of the background check report**
14 **and shall notify the applicant of the prospective adverse action and the items forming the**
15 **basis for the prospective adverse action.**

16 **(d) If, within 14 calendar days of the date that the notice described in Subsection (c) of**
17 **this section is provided by the housing provider to the applicant, the applicant gives the**
18 **housing provider notice in writing of evidence of the inaccuracy of the item or items of**
19 **conviction history or evidence of rehabilitation or other mitigating factors set forth in this**
20 **section, the housing provider shall delay any adverse action for a reasonable period of not**
21 **less than five calendar days after receipt of the information. During that time, the housing**

1 provider shall reconsider the prospective adverse action in light of the information
2 provided by the applicant or potential applicant.

3 (e) The housing provider shall promptly notify the applicant of any final adverse action
4 based upon their conviction history or contents of the criminal background check.

5 (f) It shall be unlawful for any housing provider to engage in any communication,
6 including the production or dissemination of advertisements, related to eligible housing,
7 which expresses, directly or indirectly, that any person with an arrest or conviction record
8 will not be considered for the rental or lease of real property or that may not apply for the
9 rental or lease of real property, except as required by local, state, or federal law. For
10 purposes of this subsection, engaging in a communication includes, but is not limited to,
11 making a verbal statement, or producing or disseminating any solicitation, advertisement,
12 or signage.

13
14 **296.26. Notice and posting requirements for housing providers.**

15 (a) A housing provider shall state in all solicitations or advertisements for the rental or
16 lease of eligible housing, or made on their behalf, that the housing provider shall consider
17 qualified applicants consistent with Sections 296.20 through 296.31. This language shall
18 include, at minimum, the following statement:

19 "The rental or lease of this property must comply with Sections 296.20 through
20 296.31 of the Lansing Code of Ordinances regulating the use of criminal
21 background checks as part of the tenant screening process to provide residents with

1 criminal backgrounds a fair opportunity. For additional information, please contact the
2 City of Lansing Office of Human Relations and Community Services (HRCS)."

3 (b) The administering agency shall publish and make available to housing providers, in
4 all languages spoken by more than five percent of the City's population, a notice suitable
5 for posting that informs applicants for eligible housing of their rights under this article.

6 This notice shall be updated on or before December 1st of any year when there is a change
7 in the languages spoken by more than five percent of the City's population.

8 (c) In addition to the requirements for solicitations or advertisements in Subsection (a)
9 of this section, housing providers shall post a notice prominently on their website and at
10 any location under their control that is frequently visited by applicants or potential
11 applicants for the rental or lease of eligible housing in the City. In addition, this notice shall
12 be available to applicants in hard copy and provided with an application. The notice
13 requirements in this section shall contain the following additional information, which may
14 be summarized by the housing provider or available from the administering agency
15 pursuant to Section 296.23(a)(1) of this Code:

16 (1) A description of those matters identified in Section 296.23 that may not be
17 considered by the housing provider;

18 (2) A description of the restrictions and requirements that Section 296.23
19 imposes on housing providers when inquiring about conviction history in connection with
20 an application for the rental or lease of eligible housing in the City;

1 (3) The circumstances and timeline under which the applicant or potential
2 applicant has a right to provide evidence of rehabilitation and other mitigating factors as
3 provided in Section 296.25; and

4 (4) The telephone number, email address, and mailing address of the
5 administering agency that the applicant or potential applicant may use to make a report
6 where he or she believes the housing provider has violated this article in their interactions
7 with the applicant or potential applicant.

8
9 **296.27. Exercise of protected rights; retaliation prohibited.**

10 (a) It shall be unlawful for a housing provider or any other person to interfere with,
11 restrain, or deny the exercise of, or the attempt to exercise, any right provided under
12 Sections 296.20 through 296.31.

13 (b) It shall be unlawful for a housing provider to interrupt, terminate, or fail or refuse
14 to initiate or conduct a transaction involving the rental or lease of eligible housing,
15 including falsely representing that such property is not available for rental or lease, or
16 otherwise take adverse action against a person in retaliation for exercising rights protected
17 under Sections 296.20 through 296.31. Such rights include but are not limited to:

18 (1) The right to file a complaint or inform any person about a housing provider's
19 alleged violation of Sections 296.20 through 296.31;

20 (2) The right to inform the administering agency about a housing provider's
21 alleged violation of Sections 296.20 through 296.31;

1 (3) The right to cooperate with the administering agency or other persons in the
2 investigation or prosecution of any alleged violation of Sections 296.20 through 296.31; or

3 (4) The right to inform any person of his or her rights under this Sections 296.20
4 through 296.31.

5 (c) Protections of this section shall apply to any person who mistakenly, but in good
6 faith, alleges violations of Sections 296.20 through 296.31.

7 (d) Taking adverse action against a person within 90 calendar days of the exercise of
8 one or more of the rights described in this section shall create a rebuttable presumption in
9 the administering agency's investigation that such adverse action was taken in retaliation
10 for the exercise of those rights.

11
12 **296.28. Community Outreach.**

13 (a) The administering agency may establish, in consultation with the Mayor's Office, a
14 community-based outreach program to conduct education and outreach to applicants and
15 potential applicants for housing regarding rights and procedures under this article. The
16 program may be targeted at individuals or communities where, in the judgment of the
17 administering agency, the need for education and outreach is greatest.

18 (b) In establishing an outreach program pursuant to Subsection (a) of this section, the
19 administering agency may partner with community-based organizations. Nothing in this
20 section shall preclude the administering agency, by contract or grant, and consistent with
21 other provisions of local laws, from engaging the services of such organizations in

1 establishing such community-based outreach programs, participating in such programs, or
2 developing materials for such programs. Nothing in this section shall preclude the
3 administering agency from combining the outreach programs described in Subsection (a)
4 of this section with other related community outreach programs.

5
6 **296.29. Confidentiality.**

7 The City shall keep confidential, to the extent permitted by applicable laws, any identifying
8 information or other data pertaining to an applicant's criminal history.

9
10 **296.30. Complaints; Investigation and hearings; findings and recommendations; available**
11 **recommendations and remedies; conciliatory agreements**

12 (a) If a complaint is made under Sections 296.20 through 296.31, the Fair Access to Rental
13 Housing sections, it shall be investigated and processed under the procedures established
14 pursuant the Lansing Codified Ordinances, Human Rights Ordinance, Sections 297.10
15 through 297.14.

16
17 **296.31. Penalty; civil infraction.**

18 (a) A violation of any provision of this chapter is a civil infraction. Notwithstanding the
19 definition contained in Section 203.01, the Director of the Human Relations and
20 Community Services Department, or his/her designee, is an Authorized City Official
21 authorized to write a civil infraction ticket under this Chapter 296, Sections 296.20-290.31.

(b) If the Hearing Officer determines that a violation of this chapter has occurred and the respondent does not comply with the Hearing Officer's recommendation within the specified time period, either the complainant or the Hearing Officer may refer the matter to a city or County Prosecutor, the Michigan Department of Civil Rights, the United States Department of Justice, Department of Housing and Urban Development, or other appropriate enforcing agency.

(c) A violation of a prohibited act in this chapter is designated a municipal civil infraction, is not a crime, and shall not be punishable by imprisonment.

(d) Schedule of civil fines. The violation shall be according to the following schedule:

(1) First violation\$150.00

(2) Second violation250.00

(3) Third (or any subsequent) violation500.00

Section 3. Any ordinances in conflict with this Ordinance are repealed, but only to the extent necessary to give this Ordinance full force and effect.

Section 4. This ordinance shall take effect on the 30th day after enactment, unless given immediate effect by City Council, and shall expire December 31, 2031.

Approved as to form:

City Attorney

Dated: _____

FAIR HOUSING ACT: CRIMINAL HISTORY-BASED PRACTICES AND POLICIES

NAR LEGAL AFFAIRS DEPARTMENT
April 2016

In the recently issued "Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions", the U.S. Department of Housing and Urban Development ("HUD") urges housing providers to exercise caution when implementing criminal history policies or practices used to make housing decisions.

HUD's guidance comes on the heels of the Supreme Court's decision last summer, which held disparate impact claims are cognizable under the Fair Housing Act.¹ While persons with criminal records are not a protected class under the Act, HUD stresses that criminal history-based barriers to housing have a statistically disproportionate impact on minorities, which *are* a protected class under the Act, and as such, creating arbitrary or blanket criminal-based policies or restrictions could violate the Fair Housing Act ("FHA" or "Act"). To be clear, HUD's guidance does not preclude housing providers from crafting criminal history-based policies or practices, but the guidance makes evident that housing providers should create thoughtful policies and practices that are tailored to serve a substantial, legitimate, and nondiscriminatory interest of the housing provider, such as resident safety or the protection of property.

HUD includes context for its guidance, and offers statistical evidence that the United States minority population experiences arrest and incarceration at rates disproportionate to their share of their population. For instance, HUD asserts that in 2014, African Americans were incarcerated at a rate nearly three times their proportion of the general population.

¹ Texas Dep't of Hous. & Cmty Affairs v. Inclusive Cmty Project, Inc., 135 S.Ct. 2507 (2015).

FAIR HOUSING ACT: CRIMINAL HISTORY-BASED PRACTICES AND POLICIES

NAR LEGAL AFFAIRS DEPARTMENT

April 2016

In the context of criminal history policies or practices, disparate impact liability is determined using a burden-shifting framework that first requires a plaintiff or HUD to prove that the criminal history policy or practice has a discriminatory effect, meaning the policy or practice results in a disparate impact on a group of persons because of their race, national origin or other protected characteristic under the Act. In this step of the process, evidence must be provided that demonstrates that the criminal history policy or practice actually or predictably results in a disparate impact. If successful, the burden then shifts to the housing provider to show that the policy or practice in question is justified. Here, the housing provider must show that the policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest of the housing provider, and further, that the policy or practice actually achieves that interest. Finally, if a housing provider is successful, the burden shifts back to the Plaintiff or HUD to prove that the housing provider's interest could be served by another practice that has a less discriminatory effect.

The determination of whether a criminal history-based policy or practice has a disparate impact in violation of the Act is ultimately a fact and case-specific inquiry. However, HUD's guidance provides insight into how to create a legally defensible policy that does not violate or frustrate the FHA's prohibition on the discrimination in the sale, rental or financing of dwellings or in other housing-related activities. We recommend review of HUD's guidance, but have distilled that guidance to assist in reviewing existing criminal history-based policies or practices or in the creation of a new one:

FAIR HOUSING ACT: CRIMINAL HISTORY-BASED PRACTICES AND POLICIES

NAR LEGAL AFFAIRS DEPARTMENT
April 2016

<u>CRIMINAL HISTORY-BASED HOUSING POLICIES AND PRACTICES</u>	
<u>Do's</u>	<u>DON'Ts</u>
✓ Create tailored criminal history-based policies/practices.	× Don't create arbitrary or overly-broad criminal history-based policies/practices.
✓ Be sure to have clear, specific reasoning for the criminal history-based policy/practice that can be supported by evidence.	× Don't maintain a policy/practice, or any portion thereof, that does not serve a substantial, legitimate, nondiscriminatory interest.
✓ Exclude individuals only based on criminal convictions that present a demonstrable risk to resident safety or property.	× Don't create exclusions based on <u>arrest</u> records alone.
✓ Consider the nature and severity of an individual's conviction before excluding the individual based on the conviction.	× Don't create a blanket exclusion of any person with any conviction record.
✓ Consider the amount of time that has passed since the criminal conduct occurred.	× Don't provide inconsistent explanations for the denial of a housing application.
✓ Consider criminal history uniformly, regardless of an individual's inclusion in a protected class.	× Don't use criminal history as a pretext for unequal treatment of individuals of a protected class.
✓ Treat all applicants for housing equally, regardless of protected characteristics.	× Don't use comparable criminal history differently for individuals of protected classes.
✓ Conduct individualized assessments that take into account mitigating factors, such as facts and circumstances surrounding the criminal conduct, age at the time of the conduct, evidence of good tenancy before/after conduct, and rehabilitative efforts.	× Don't make exceptions to a policy or practice for some individuals, but not make the same exception for another individual based on the individual's inclusion in a protected class.
✓ Housing providers may exclude persons convicted of the illegal <u>manufacture</u> or <u>distribution</u> of a controlled substance. ²	× Don't include a blanket prohibition against individuals convicted of drug <u>possession</u> .

² 42 U.S.C. 3607(b)(4).

Resolution #2022-010

By Council Member Hussain
Resolved by the City Council of the City of Lansing

WHEREAS, the City Council has a duty to represent the citizens of Lansing and ensuring a safe and healthy community; and

WHEREAS, an Ad Hoc Committee on Housing and Resident Safety will be established to review current ordinances and policies, to meet with stakeholders, community members and city staff, and to address and assist residents in housing safety and tenant issues.

NOW BE IT RESOLVED, Lansing City Council President Hussain appoints Council Member Spitzley as Chair of the Ad Hoc Committee on Housing and Resident Safety, Council Member Wood as Vice Chair, and Council Member Brown as Member.

BE IT FURTHER RESOLVED, the Ad Hoc Committee on Housing and Resident Safety will report their findings and recommendations to the Committee of the Whole no later than September 1, 2022.

BE IT FINALLY RESOLVED, the Ad Hoc Committee on Housing and Resident Safety will meet on the days and times set by the Chair and will be dissolved by December 31, 2022.