

79-O-22

AN ORDINANCE

Amending City Code Title 5, Chapter 5 “Fair Housing Ordinance”

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: Title 5, Chapter 5 “Fair Housing Ordinance” of the Evanston City Code of 2012, as amended, is hereby further amended and revised as follows:

5-5-1. SHORT TITLE.

This Chapter shall be known and may be cited as the *FAIR HOUSING ORDINANCE OF THE CITY OF EVANSTON*.

5-5-2. PURPOSE AND DECLARATION OF POLICY.

It is hereby declared to be the policy of the City and the purpose of this Chapter, in the exercise of its police and regulatory powers for the protection of the public safety for the health, morals, safety and welfare of the persons in and residing in the City, and for the maintenance and promotion of commerce, industry, and good government in the City, and to promote and protect fair housing opportunities throughout the City and to acknowledge the value of diversity within our community, to secure to all persons living and/or working, or desiring to live and/or work in the City of Evanston, an equal opportunity to view, purchase, lease, rent, or occupy real estate without discrimination based on race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status, or national origin of any individual, covered criminal history, or actual or perceived status as a victim of domestic violence.

5-5-3. CONSTRUCTION.

This Chapter shall be construed according to the fair import of its terms and shall be liberally construed to further the purposes and policy stated in Section 2 of this chapter and the special purpose of the particular provision involved.

5-5-4. SEVERABILITY.

If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, the remainder of this Chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

5-5-5. DEFINITIONS.

For the purpose of this Chapter:

AGE CLASSIFICATION.	Includes any person eighteen (18) years of age or older, or an emancipated mature minor as determined under 750 Illinois Compiled Statutes 30/1 et seq., "The Emancipation of Mature Minors Act."
BUSINESS DAY.	<u>Any day except Saturday, Sunday, or any day which is a federal or State of Illinois legal holiday.</u>
CHILD.	Any person under the age of eighteen (18) who is a member of a family as that term is defined in Section 6-18-3 of this Code.
CONVICTION.	<u>A judgment of liability entered upon a plea, verdict or finding of guilt for an offense, rendered by a legally constituted jury, court or administrative authority of competent jurisdiction. Conviction excludes any "juvenile record" as defined below.</u>
COVERED CRIMINAL HISTORY.	<u>Information regarding an individual's arrest, charge or citation for an offense; participation in a diversion or deferral of judgment program; record of an offense that has been sealed, expunged, or pardoned in accordance with applicable law; juvenile record; and conviction</u>
COVERED MULTIFAMILY DWELLING.	For the purposes of this Chapter, the term "covered multi-family dwelling" applies only to newly constructed dwellings as defined in Subsection 6(W)2(c), and shall consist of: (A) Any dwelling containing four (4) or more living units if such building has an elevator, and (B) Ground floor units of other buildings consisting of four (4) or more units that do not contain an elevator. (Ord. No. 100-0-93)
DEMONSTRABLE RISK.	<u>The likelihood of harm to other residents' personal safety and/or likelihood of serious damage to the property. When the applicant is a personal with a disability, "demonstrable risk" must be based on (a) objective evidence and (b) a conclusion that any purported risk cannot be reduced or eliminated by a reasonable accommodation.</u>
DISABILITY.	With respect to a person: (A) A physical or mental impairment which substantially limits one or more of such person's major life activities; (B) A record of having such an impairment; or (C) Being regarded as having such an impairment, but such term does not include current, illegal use of or addition to a controlled substance (as defined in section 102 of the Controlled Substances Act 21 U.S.C. 802).
DISCRIMINATION.	To make distinction in treatment of any person because of race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or national origin

	of an individual. (Ord. No. 34-0-92; Ord. No. 26-O-14)
<u>DOMESTIC VIOLENCE</u>	<u>"Abuse" as defined in Section 103 of the Illinois Domestic Violence Act of 1986 by a "family or household member" as defined in Section 103 of the Illinois Domestic Violence Act of 1986</u>
<i>DWELLING UNIT.</i>	A room or group of rooms designed for occupancy by one family with eating, sleeping and living facilities or lodging rooms as defined in the Evanston Zoning Ordinance, Title 6 of this Code. Dwelling unit shall include any vacant land which is offered for sale or lease, for the construction or location thereon of any structure or building for occupancy as a residence for one or more persons.
	The term "existing dwelling unit" as used in Subsection 6(V)2(a) of the Evanston Fair Housing Ordinance shall include the interior or exterior spaces, parts, components or elements of a building, including individual dwelling units and the public and common use areas of the building. (Ord. No. 100-0-93)
<u>EVIDENCE OF REHABILITATION.</u>	<u>Any information produced by the individual, or produced on their behalf, with respect to their rehabilitation or good conduct, including but not limited to: the individual's satisfactory compliance with all terms and conditions of his or her sentence; court-issued certificates of good conduct; employer recommendations; educational attainment or vocational or professional training since the conviction; completion or active participation in rehabilitative treatment; and letters of recommendation from community organizations, counselors or case managers, teachers, community leaders, religious institutions or leaders, or parole/probation officers who have observed the individual since his or her conviction.</u>
<i>FAMILIAL STATUS.</i>	Refers to whether a household includes one or more individuals (who have not attained the age of 18 years) domiciled with:
	(A) A parent or another person having legal custody of such individual or individuals; or
	(B) The designee of such parent or other person having such custody, with the written permission of such parent or other person.
	The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.
<u>GENDER IDENTITY.</u>	<u>A person's actual or perceived gender, including a person's gender identity, self-image, appearance, expression, or behavior, whether or not that gender identity, self-image, appearance, expression, or behavior is different from that traditionally associated with the person's sex at birth as being either female or male</u>
<u>INDIVIDUALIZED</u>	A process by which a person considers all factors relevant to an

<u>ASSESSMENT.</u>	<u>individual's conviction history and whether that history negatively impacts the individual's ability to fulfill the responsibilities of tenancy, including but not limited to:</u>
	<u>(1) The nature, severity, and recency of the conduct underlying the individual's specific conviction(s);</u>
	<u>(2) The nature of the individual's sentencing;</u>
	<u>(3) The number of the individual's convictions;</u>
	<u>(4) The length of time that has passed following the individual's most recent conviction;</u>
	<u>(5) The age of the individual at the time of the most recent conviction;</u>
	<u>(6) Evidence of rehabilitation; and</u>
	<u>(7) The individual's tenant history before and/or after the conviction</u>
	<u>(8) Whether the criminal conviction(s) was related to or a product of the applicant's disability; and</u>
	<u>(9) If the applicant is a person with a disability, whether any reasonable accommodation could be provided to ameliorate any purported demonstrable risk.</u>
<u>JUVENILE RECORD.</u>	<u>Juvenile court records, as defined in 705 ILCS 405/1-3(8.1) or comparable state law, and juvenile law enforcement records, as defined in 705 ILCS 405/1-3(3.2) or comparable state law.</u>
<u>LEASE or LEASING.</u>	Includes and means rent, renting, assignment, sublease and subletting.
<u>LENDING INSTITUTION.</u>	Any bank, insurance company, savings and loan association, other person in the business of lending money or guaranteeing loans, any person in the business of obtaining, arranging, or negotiating loans or guarantees as agent or broker, and any person in the business of buying or selling loans or instruments for the payment of money which are secured by title to or a security interest in real estate.
<u>MANAGER.</u>	A person who as owner or agent of the owner or owners has the principal responsibility for the management of five (5) or more dwelling units for rent within the City and performs or employs others to perform the services associated with the letting and maintenance of said rental units.
<u>OFFENSE.</u>	<u>A violation of any penal statute, ordinance, law, or code of any jurisdiction.</u>
<u>OWNER.</u>	Any person who holds legal or equitable title to, or owns any beneficial interest in, any real property or who holds legal or equitable title to shares of, or holds any beneficial interest in, any real estate cooperative which owns any real property or any person who is acting as the agent, manager or employee of the

	owner.
<i>PERSON.</i>	Includes one or more individuals, corporations, partnerships, associations, legal representatives, mutual companies, joint stock companies, labor organizations, unincorporated organizations, trusts, trustees, trustees in bankruptcy, receivers and fiduciaries.
<i>PURCHASE.</i>	Includes any contract to purchase.
<i>REAL ESTATE BROKER.</i>	Any person licensed as a real estate broker in accordance with the provisions of 225 ILCS 455/1, or required thereby to be so licensed.
<i>REAL ESTATE TRANSACTION.</i>	The purchase, sale, exchange, or lease <u>lease, sublease, or lease renewal</u> of any real property and an option to do any of the foregoing.
<i>REAL PROPERTY.</i>	Any real estate, improved or unimproved, within the City limits, including rooming units.
<i>SALE.</i>	Includes any contract to sell, exchange or to convey, transfer or assign legal or equitable title to or a beneficial interest in real property.
<u>RELEVANCE.</u>	<u>The degree to which an individual's conviction history makes it likely that the applicant poses a demonstrable risk to the personal safety and/or property of others</u>
<u>SEXUAL HARASSMENT.</u>	<u>Any unwelcome sexual advances or requests for sexual favors or conduct of a sexual nature when (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's housing; or (b) submission to or rejection of such conduct by an individual is used as the basis for any housing decision affecting the individual; or (c) such conduct has the purpose or effect of substantially interfering with an individual's housing rights or creating an intimidating, hostile or offensive housing environment.</u>
<u>SEXUAL ORIENTATION.</u>	<u>Refers to having or being perceived as having emotional, physical, or sexual attachment to another without regard to the sex of that person or having or being perceived as having an orientation for such an attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include a physical or sexual attachment to children by an adult.</u>
<i>SOURCE OF INCOME.</i>	The lawful manner by which an individual supports himself or herself and his or her dependents. (Ord. No. 26-O-14)
<i>STEERING.</i>	To encourage or discourage the sale or rental of real property because of the race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or national origin of the individual and/or persons in the neighborhood in which the property is located. This shall include, but is not limited to, directing persons into or away from areas

	because of race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or national origin of the individual and/or persons in the area or purported to be moving into the area. (Ord. No. 100-0-93; Ord. No. 26-O-14)
<u>TENANT SELECTION CRITERIA.</u>	<u>The criteria, standards and/or policies used to evaluate whether an applicant qualifies for admission to occupancy or continued residency. The criteria, standards, and/or policies shall apply only after a housing applicant has been pre-qualified. The criteria must explain how applicants' criminal conviction history from the previous three (3) years will be evaluated to determine whether their conviction history poses a demonstrable risk to personal safety or property.</u>

5-5-6. DISCRIMINATION PROHIBITED.

No person, including, but not limited to, any owner, manager, lessee or sublessee of real property, real estate broker, lender, financial institution, advertiser, real estate appraiser or agent of any of the foregoing, shall discriminate against any other person (or discriminate against such person because of the race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status, or national origin of the friends or associates of such person, covered criminal history, or actual or perceived status as a victim of domestic violence) in regard to the sale or rental of or dealings concerning real property. ~~"Sexual orientation" is defined as: having or perceived as having emotional, physical, or sexual attachment to another without regard to the sex of that person or having or being perceived as having an orientation for such an attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include a physical or sexual attachment to children by an adult. "Gender identity" is defined as: a person's actual or perceived gender, including a person's gender identity, self-image, appearance, expression, or behavior, whether or not that gender identity, self-image, appearance, expression, or behavior is different from that traditionally associated with the person's sex at birth as being either female or male.~~ Any such discrimination shall be unlawful. Without limiting the foregoing, it shall also be unlawful discrimination for any person to:

(A) *Policies and Publicity.* Advertise, publish, display, or circulate or cause to be published, displayed, advertised or circulated, either in writing or orally, any notice, statement, communication, sign or advertisement, or to announce a policy, or to use any form of application for the purchase, lease, rental, or financing of real property, or to make any record or inquiry in connection with the prospective purchase, rental or lease

of real property, which expresses directly or indirectly any discrimination, or any intent to discriminate.

(B) *Deceive or Overcharge.* Discriminate by deceiving or overcharging any person for real property in the City, or to making any distinction or restriction against any person as to the conditions or privileges of any kind relating to the sale, rental, lease, or occupancy of real property.

(C) *Discriminate in Lending.* (See Section 5-5-8 of this Chapter.) Discriminate or to participate in discrimination in connection with borrowing or lending money, guaranteeing loans, accepting mortgages, the making or purchasing of loans or the provision of other financial assistance secured by residential real estate, or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repairs or maintenance of any real property in the City.

(D) *Change in Neighborhood.* Solicit or to enter into any agreement for the sale, lease or listing for sale or lease of any real property within the City (on the ground of loss of value) due to the present or prospective entry into any neighborhood of any person or persons of any particular race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or national origin, covered criminal history, or actual or perceived status as a victim of domestic violence.

(E) *Inducing Sales.* Distribute or cause to be distributed written material or statements designed to induce any person to sell or lease real property because of the alleged or actual or because of any present or prospective change in the race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or national origin of persons, covered criminal history, or actual or perceived status as a victim of domestic violence in the City or neighborhood.

(F) *Misrepresentation.* Make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any real property for the purpose of inducing or attempting to induce the sale or listing for sale of any real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or national origin, covered criminal history, or actual or perceived status as a victim of domestic violence in the area will or may result in the lowering of real property values in the block, neighborhood or area in which the property is located.

(G) *Refusal to Sell.* Refuse to sell or rent real property because of race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of

income, familial status or, national origin, covered criminal history, or actual or perceived status as a victim of domestic violence.

(H) *Refusal to Show Records of Available Housing.* Refuse to show to any person who has specified his/her needs, the list or other records identifying all real properties reasonably meeting such specifications.

(I) Refusal to Repair. Refuse or delay in making repairs or maintenance of sale or rental real property.

(~~I~~ J) *Withholding Housing.* Represent to any person that any real property is not available, or otherwise to withhold real property from any person because of race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or, national origin, covered criminal history, or actual or perceived status as a victim of domestic violence.

(~~J~~ K) *Refusal to Show Real Estate.* Refuse to show real estate because of the race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or national origin of any prospective purchaser, lessee or tenant, or because of the race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status, national origin or, covered criminal history, or actual or perceived status as a victim of domestic violence of the residents in the area in which the property is located.

(~~K~~ L) *Steering.* Encourage or discourage the sale or rental of real property because of the race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or, national origin, covered criminal history, or actual or perceived status as a victim of domestic violence of the individual and/or persons in the neighborhood in which the property is located. This shall include but is not limited to directing persons into or away from areas because of race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or, national origin, covered criminal history, or actual or perceived status as a victim of domestic violence of the individual and/or persons in the area or purported to be moving into the area.

(~~L~~ M) *Differential Treatment.* Make any differential treatment toward any prospective seller, purchaser, or tenant because of that person's race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or, national origin, covered criminal history, or actual or perceived status as a victim of domestic violence or toward any prospective seller, purchaser, or tenant because of the race, color, religion, sex, age, sexual orientation, gender identity, marital

status, disability, source of income, familial status or national origin of the persons in the area in which that property is located.

(M N) *Evasion*. Employ any person as a salesman or agent as a means of evading provisions of this Chapter.

(N O) *Providing Information*. Volunteer oral or written information about the racial composition of a neighborhood unless such information is a factual, accurate and actual response to an unsolicited direct question.

(O P) *Posting and Distributing*. Fail to post in a prominent place available for observation by the public in each business establishment of a person in the business of purchasing, selling, exchanging or leasing real property, a copy of this Chapter, or a poster provided by the Commission summarizing this Chapter; and/or fail to distribute to any prospective seller, purchaser or tenant a summary of the ordinance provided by the Commission.

(P Q) *Rental Application*. Discriminate by denying, or unreasonably delaying the processing of, a lease or rental application of a person, discriminate in the fixing of the fee or length of processing time, or other terms and conditions of such application process.

(Q R) *Insurance*. Discriminate in the sale of insurance in connection with real estate.

(R S) *Redlining*. To discriminate by differential treatment of a geographic area in the setting of insurance rates or appraised valuations or the availability of financing of property, based on the race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or, national origin, covered criminal history, or actual or perceived status as a victim of domestic violence of persons in the area or purported to be moving into the area.

(S T) *Listing Agreement and Multiple Listing Service*.

1. Entering into a listing agreement which discriminates against any person due to their race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or, national origin, covered criminal history, or actual or perceived status as a victim of domestic violence.

2. Deny a person access to, or membership or participation in any multiple listing service, real estate broker's organization or facility relating to the business of selling or renting dwellings, or to discriminate against him/her in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial

status of, national origin, covered criminal history, or actual or perceived status as a victim of domestic violence.

(~~F~~ U) *Aid or Abet.* Discriminating by aiding or abetting acts performed in violation of this Chapter.

(~~U~~ V) *Coercion.* Coercion, intimidation, retaliation, threatening or interference with any person in the exercise or enjoyment of, or on account of his/her having exercised or enjoyed, or on account of his/her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Chapter.

(~~V~~ W) *Discrimination Due to a Disability.*

1. To discriminate because of a disability of:
 - a. That person;
 - b. A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or
 - c. Any person associated with that disability.
2. For purposes of this subsection, "discrimination" includes:
 - a. A refusal to permit, at the expense of the disabled person, reasonable modifications of an existing dwelling unit occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; a person with disabilities may make reasonable modification as provided in this Section of the fair housing ordinance to the interior or exterior public and common use areas of a building as well as to his/her individual dwelling unit.
 - b. A refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or
 - c. In connection with the design and construction of covered multi-family dwellings for first occupancy a failure to design and construct those dwellings in such a manner that:
 - (1) The public use and common use portions of such dwellings are readily accessible to and usable by disabled persons;

(2) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

(3) All premises within such dwellings contain the following features of adaptive design:

- A. An accessible route into and through the dwelling;
- B. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;
- C. Reinforcements in bathroom walls to allow later installation of grab bars; and
- D. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

3. Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people (commonly cited as ANSI A117.1) suffice to satisfy the requirements of this paragraph.

(X) Discrimination Due to Criminal History

1. To discriminate based on covered criminal history.

2. For the purposes of this subsection, "discrimination" includes:

a. Inquiring about, considering or requiring disclosure of covered criminal history when considering an application for admission to, or continuing occupancy of, residential real property until the individual has been determined qualified for admission to, or continuing occupancy of, residential real property.

b. Failure to follow the procedure in Section 5-5-7.5 regarding Notice and Opportunity to Dispute Conviction.

5-5-6.5. SEXUAL HARASSMENT PROHIBITED.

(A) Section 5-5-6 of the Evanston Fair Housing Ordinance prohibits any owner, manager, lessee or sublessee of real property, real estate broker, lender, financial institution, advertiser, real estate appraiser or agent having the right to sell or rent any dwelling, or any agent of any of these from discriminating against any person because of his or her sex in any of the terms and conditions of housing. This prohibition includes sexual harassment as defined in Section 5-5-5.

(B) In addition to the conduct prohibited by (A) and Section 5-5-5, it is a violation for any owner, manager, lessee or sublessee of real property, real estate broker, lender, financial institution, advertiser, real estate appraiser or agent to grant housing opportunities or benefits because of a person's submission to sexual advances or requests for sexual favors with respect to the person in question or to deny housing opportunities or benefits because of a person's refusal of sexual advances or requests for sexual favors.

5-5-7. - EXEMPTIONS.

This Chapter shall not:

(A) Bar any religious or denominational institution or organization, or any charitable or educational organization operated, supervised or controlled by or in connection with a religious organization, from limiting the sale, rental or occupancy of dwellings, which it owns or operates for other than commercial purposes or giving preference with respect thereto, to persons of the same religion or denomination, unless membership in such religion is restricted on account of race, color or national origin.

(B) Except for Subsection 6(A) of this Chapter, apply to the leasing of rooms to roomers in a dwelling unit occupied by the owner as a family household having not more than two (2) roomers, living independently, exclusive of salaried household employees living on premises.

(C) Prohibit (due to the familial status provision of this Chapter) the operation of housing for older persons. If the following provisions are satisfied:

1. As used in this Section "housing for older persons" means housing:

a. Provided under any State or Federal program that the U.S. Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

b. Intended for, and solely occupied by, persons sixty two (62) years of age or older; or

c. Intended and operated for occupancy by at least one person fifty five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this Section, the Administrator shall require at least the following factors to be met:

(1) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities is not

practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(2) That at least eighty percent (80%) of the units are occupied by at least one person fifty five (55) years of age or older per unit; and

(3) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty five (55) years of age or older.

2. Housing shall not fail to meet the requirements for housing for older persons by reason of unoccupied units; provided, that such units are reserved for occupancy for persons who meet the age requirements of subsections (C)1(b) or (c) herein.

(D) Bar any educational organization from limiting to persons of the same sex the rental of living accommodations.

(E) Bar a person from denying the admission to or continuing occupancy of residential real property on the basis of:

1. a current sex offender registration requirement pursuant to the Sex Offender Registration Act (or similar law in another jurisdiction);

2. a current child sex offender residency restriction; or

3. a criminal conviction, provided that the person complies with Section 5-5-7.5 of this Code and conducts an individualized assessment, and the individualized assessment shows that denial based on the criminal conviction is necessary to protect against a demonstrable risk to personal safety and/or property of others affected by the transaction. Any person conducting such individualized assessment is prohibited from basing any adverse housing decision, in whole or in part, upon a conviction that occurred more than (3) years from the date of the decision.

(F) Bar a person from denying the admission to or continuing occupancy of residential real property on the basis of covered criminal history when federal or state law mandates such denial.

5-5-7.5. NOTICE AND OPPORTUNITY TO DISPUTE CONVICTION.

To comply with Sections 5-5-6(X)(2)(b) and 5-5-7(E), a person must provide the following process:

(A) Before accepting an application fee, a housing provider must disclose to the applicant:

- a. The tenant selection criteria, which describes how an applicant will be evaluated to determine whether to rent or lease to the applicant;
 - b. The applicant's right to provide evidence demonstrating inaccuracies in the applicant's conviction history, or evidence of rehabilitation, and other mitigating factors; and
 - c. A copy of the Cook County Commission on Human Rights ("Commission") procedural rules or a link to the Commission's website, with the address, email address, and phone number of the Commission.
- (B) No person shall inquire about, consider, or require disclosure of covered criminal activity, except current sex offender registration or current child sex offender residency restriction pursuant to Section 5-5-7, before the person has determined the applicant has satisfied all other application criteria for housing or continued occupancy.
 - (C) Once a person determines an applicant has satisfied the pre-qualification standards for housing the housing provider shall notify the applicant that the first step of the screening procedure has been satisfied and that a criminal background check will be performed or solicited.
 - (D) After a person sends the notice of pre-qualification, a housing provider may conduct a criminal background check on the prequalified applicant. However, the person may not consider any information related to the criminal convictions that are more than three (3) years old or any covered criminal history.
 - (E) Within five days of obtaining a criminal background check on an applicant, the person must deliver a copy of the background check to the applicant. The person must complete delivery in one of the following ways: (1) in person, (2) by certified mail, or (3) by electronic communication, such as text or email.
 - (F) Once a person complies with the requirement of Section 5-5-7.5(E), the applicant shall have an additional five (5) business days to produce evidence that disputes the accuracy or relevance of information related to any criminal convictions from the last three (3) years.
 - (G) Nothing in this Section shall prevent a person from approving another pre-qualified individual's housing application during the pendency of the criminal conviction dispute process.

- (H) After giving the applicant the opportunity to dispute the accuracy and/or relevance of a conviction, a person shall conduct an individualized assessment, in accordance with Sections 5-5-7(E)(3) to determine whether the individual poses a demonstrable risk. If the applicant poses a demonstrable risk, the person may deny the individual housing.
- (I) A person must perform an individualized assessment prior to denying an individual housing based on criminal conviction history, except in the following circumstances:
 - a. A current sex offender registration requirement pursuant to the Sex Offender Registration Act (or similar law in another jurisdiction); and/or
 - b. A current child sex offender residency restriction.
- (J) A housing provider must either approve or deny an individual's housing application within three (3) business days of receipt of information from the applicant disputing or rebutting the information contained in the criminal background check.
- (K) Any denial of admission or continued occupancy based on a conviction must:
 - a. Be in writing and must provide the applicant an explanation of why denial based on criminal conviction is necessary to protect against a demonstrable risk of harm to personal safety and/or property; and
 - b. Contain a statement informing the housing applicant of their right to file a complaint with the Commission.
- (L) The housing provider must limit the use and distribution of information obtained in performing the applicant's criminal background check. The housing provider must keep any information gathered confidential.

5-5-8. DISCRIMINATION IN LENDING.

It shall be unlawful and a violation of this Chapter for any lending institution to discriminate in making, agreeing to make, arranging, or negotiating any loan or guarantee of funds for the purpose of financing the purchase or sale, construction, lease, rehabilitation, improvement, renovation, or repair of any real property, or to offer, seek or agree to terms, conditions or privileges that discriminate on account of race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability,

source of income, familial status or national origin. (See Section 5-5-6(C) of this Chapter.)

5-5-9. REFUSALS TO DEAL IN LENDING.

It shall be unlawful and a violation of this Chapter for any lending institution to refuse to negotiate for, enter into, or perform any agreement to lend or guarantee the loan of funds for the purchase, sale, construction, lease, rehabilitation, improvement, renovation, or repair of any real property because of discrimination on account of race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or national origin.

5-5-10. COVERAGE.

This Chapter shall apply, respectively, to every person, including, but not limited to, every owner, lending institution, real estate broker and manager who, within the City, performs any function relating to or in connection with a real estate transaction, whether or not such person maintains an office or place of doing business within the City; provided, however, that the provisions of this Chapter shall not be so construed as to prohibit a person on behalf of the owner from inquiring into and reporting upon the qualifications of any prospective buyer or tenant with respect to limitations or exclusions other than those of race, color, religion, sex, age, sexual orientation, gender identity, marital status, disability, source of income, familial status or national origin.

5-5-11. PRIVATE REMEDIES.

Any person aggrieved in any manner by the violation of this Chapter, may commence a civil action in any court of competent jurisdiction to obtain appropriate relief with respect to such discriminatory housing practice or breach. If the court finds that a discriminatory housing practice has occurred, the court may grant the following relief:

- (A) An order compelling compliance with this Chapter.
- (B) An order to prohibit any person found by the court to have violated any provision of this Chapter from the sale, lease, exchange, transfer, conveyance or assignment of any real property, by any person who in violation of this Chapter refuses or fails to perform such contract.
- (C) Compensatory damages and punitive damages, including damages caused by humiliation and embarrassment.
- (D) Such other and further relief as may seem appropriate to the court for the enforcement of this Chapter and the elimination of violations thereof.

(E) In a civil action under this Chapter, the court may allow the prevailing party a reasonable attorney's fee and costs.

These remedies shall be available notwithstanding the imposition of other penalties provided by this Chapter.

5-5-12. ENFORCEMENT BY THE CORPORATION COUNSEL

In compliance with this Chapter, whenever the Corporation Counsel has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any rights granted by this subchapter, or that any group of person has been denied any of the rights granted by this chapter and the denial raises an issue of general importance, the Corporation Counsel may bring a civil action in the Circuit Court by filing with it a complaint setting forth the facts and requesting the preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for the pattern or practice or denial of rights, as the Corporation Counsel deems necessary to ensure the full enjoyment of the rights granted by this Chapter.

5-5-123. PENALTY.

Any person violating the provisions of this Chapter shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each such offense. Every day a violation continues may be deemed a separate offense by appropriate finding.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 4: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 5: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: August 8, 2022

Approved:

Adopted: October 10, 2022

October 17, 2022

Daniel Biss

Daniel Biss, Mayor

Attest:

Approved as to form:

Stephanie Mendoza

Nicholas E. Cummings

Stephanie Mendoza, City Clerk

Nicholas E. Cummings, Corporation Counsel