

ORDINANCE NO. _____ . SERIES 2019

AN ORDINANCE AMENDING SECTIONS. 92.02, 92.03 and 93.04 OF THE LOUISVILLE METRO CODE OF ORDINANCES (“LMCO”) AMENDING THE DISCRIMINATION ORDINANCE PROVIDING FOR MORE FAIR ACCESS TO RENTAL HOUSING (AMENDMENT BY SUBSTITUION).

SPONSORED BY: COUNCIL MEMBERS GREEN, HOLLANDER, AND PRESIDENT JAMES

WHEREAS, the Louisville Metro Council seeks to enhance the health, safety, and general welfare of the public; and

WHEREAS, Louisville Metro desires to implement this ordinance so as to secure for all individuals within the city, freedom from discrimination based on homeless status, prior military service, lawful source of income, and conviction history or arrest history; and

WHEREAS, Louisville Metro is committed to furthering fair housing efforts by promoting fair and equal housing opportunities for its residents, including recognizing both state and federal fair housing laws that address discrimination; and

WHEREAS, one way of prompting fair and equal housing opportunities is to eliminate barriers and increase housing options for tenants that receive rental assistance or financial aid from any federal, state, local, or nonprofit-administered benefit or subsidy program; and

WHEREAS, 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 Louisville Metro from achieving its maximum potential of economic growth; and

WHEREAS, this ordinance does not intend, and shall not be construed, to require a housing provider to give preference to anyone or to rent to an unqualified tenant; and

WHEREAS, this ordinance shall not be construed to limit a housing provider's ability to choose the most qualified and appropriate candidate from among applicants for housing; and

WHEREAS, the enactment of a new section of the Louisville Metro Code of Ordinances ("LMCO") will prohibit discrimination based on a citizen's lawful source of income, veteran status, homeless status, and arrest and conviction records and will provide citizens with a fair opportunity to secure housing.

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

SECTION I: The definitions in LMCO § 92.02 are amended as follows:

§ 92.02 DEFINITIONS

ARREST HISTORY. A record from any jurisdiction that does not result in a conviction and includes information indicating that a person has been questioned, apprehended, taken into custody or detained, or held for investigation by a law enforcement, police, or prosecutorial agency or charged with, indicted, or tried and acquitted for a felony, misdemeanor, or other criminal offense.

CONVICTION HISTORY. Information regarding one or more convictions or unresolved arrests, transmitted orally or in writing or by any other means, and obtained from any source, including but not limited to the individual to whom the information pertains or a background check report, or a record from any jurisdiction that includes information indicating that person has been convicted of a felony or misdemeanor,

provided that the conviction is one for which the person has been placed on probation, fined, imprisoned, and/or paroled.

HOMELESS STATUS. An individual whose life position is without a regular, fixed, permanent place of nighttime residence.

LAWFUL SOURCE OF INCOME. Shall include, but not be limited to, child support, alimony, foster care subsidies, income derived from social security, grants, pension, or any form of federal, state, or local public assistance or housing assistance including, but not limited to, section 8 vouchers, or any other form of housing assistance payment or credit whether or not such income or credit is paid or attributed directly to a landlord, and any other forms of lawful income.

PRIOR MILITARY SERVICE. The performance of military duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes: active duty, active duty for training, initial active duty for training, inactive duty training, and full-time National Guard duty.

SECTION II: LMCO § 92.03 is amended as follows:

§ 92.03 UNLAWFUL PRACTICES IN CONNECTION WITH HOUSING.

In connection with any of the transactions set forth herein which affect any sale, purchase, exchange, rental, or lease of any housing accommodation, it shall be a prohibited, unlawful practice for a person, owner, financial institution, real estate broker, or real estate salesperson, or any representative of the above to:

(A) Refuse to sell, purchase, exchange, rent or lease, lend or deny brokerage service or otherwise deny to or withhold any housing accommodation from a person because of race, color, religion, national origin, familial status, disability, sex, gender

identity, ~~or~~ sexual orientation, lawful source of income, conviction history or arrest history, prior military service, or homeless status; or

(B) Discriminate against a person because of race, color, religion, national origin, familial status, disability, sex, gender identity, ~~or~~ sexual orientation, lawful source of income, conviction history or arrest history, prior military service, or homeless status in terms, conditions, or privileges of the appraisal, purchasing of loans, financial assistance, sale, purchase, exchange, rental or lease of any housing accommodation, or in the furnishing of facilities or services in connection therewith; or

(C) Refuse to receive or transmit a bona fide offer to sell, purchase, exchange, rent or lease any housing accommodation from or to a person because of race, color, religion, national origin, familial status, disability, sex, gender identity, ~~or~~ sexual orientation, lawful source of income, conviction history or arrest history, prior military service, or homeless status; or

(D) Refuse to negotiate for the sale, purchase, exchange, rental or lease of any housing accommodation to any person because of race, color, religion, national origin, familial status, disability, handicap, sex, gender identity, ~~or~~ sexual orientation, lawful source of income, conviction history or arrest history, prior military service, or homeless status; or

(E) Represent to a person that any housing accommodation is not available for inspection, sale, purchase, exchange, rental, or lease when in fact it is available, or to refuse to permit a person to inspect any housing accommodation because of race, color, religion, national origin, familial status, disability, sex, gender identity, ~~or~~ sexual

orientation, lawful source of income, conviction history or arrest history, prior military service, or homeless status; or

(F) Make, print, circulate, post, mail or cause to be printed, circulated, posted, or mailed any notice, statement, or advertisement, or to announce a policy, or to sign or to use a form of application for the sale, purchase, exchange, rental, lease, or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, exchange, rental, lease or financing of any housing accommodation which indicates directly or indirectly, any discrimination or any intent to discriminate as to race, color, religion, national origin, familial status, disability, sex, gender identity, ~~or~~ sexual orientation, lawful source of income, conviction history or arrest history, prior military service, or homeless status; or

(G) Offer, solicit, accept, or use a listing of any housing accommodation for sale, purchase, exchange, rental, or lease with the understanding that any person may be subjected to discrimination in connection with such sale, purchase, exchange, rental, or lease, or in the furnishing of facilities or services in connection therewith because of his/her race, color, religion, national origin, familial status, disability, sex, gender identity, ~~or~~ sexual orientation, lawful source of income, conviction history or arrest history, prior military service, or homeless status; or

(H) Induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, exchange, rental, or lease or the listing for any of the above, of any housing accommodation by representing that the presence or anticipated presence of persons of any particular race, color, religion, national origin, familial status, disability, sex, gender identity, ~~or~~ sexual orientation, lawful source of income, conviction history or arrest

history, prior military service, or homeless status in the area to be affected by such sale, purchase, exchange, rental, or lease will or may result in:

- (1) Lowering of property values in the area;
- (2) An increase in criminal or antisocial behavior in the area; or
- (3) A decline in the quality of the schools in the area; or

(I) Make any misrepresentations concerning the listing for sale, purchase, exchange, rental, or lease or the anticipated listing for any of the above, or the sale, purchase, exchange, rental or lease of any housing accommodation in any area in Jefferson County for the purpose of inducing or attempting to induce any such listing or any of the above transactions; or

(J) Place a sign purporting to offer for sale, purchase, exchange, rental, or lease any housing accommodation that is not, in fact, so offered; or

(K) Advertise for sale, purchase, exchange, rental or lease any housing accommodation which is nonexistent, or which is not actually being offered for any of the above; or

(L) Engage in, hire to be done, or to conspire with others to commit threats or acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest, or create or play on fear with the purpose of either discouraging or inducing or attempting to induce the sale, occupancy, purchase, exchange, rental, or lease, or the listing for any of the above, of any housing accommodation; or

(M) Do any of the unlawful practices prohibited by this subchapter by canvassing; or

(N) Otherwise deny to or withhold any housing accommodation from a person because of race, color, religion, national origin, familial status, disability, sex, gender

identity, or sexual orientation, lawful source of income, conviction history or arrest history, prior military service, or homeless status; or

....

(P) Deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against that person in the terms or conditions of such access, membership, or participation because of race, color, religion, national origin, familial status, age, disability, sex, gender identity, or sexual orientation, lawful source of income, conviction history or arrest history, prior military service, or homeless status consistent with the Kentucky Real Estate Commission ("KREC") and the U.S. Department of Housing and Urban Development ("HUD") regulations.

SECTION III: LMCO § 92.04 is amended as follows:

§ 92.04 HOUSING EXCEPTIONS

(A) The provisions of this chapter, which prohibit discriminatory housing practices, other than the prohibition of discriminatory advertising, shall not apply:

....

(5) To persons with arrest history and conviction history that includes one or more of the following:

(a) Any arrest or conviction where state and/or federal law prohibits the person from being eligible for public housing and other federally subsidized housing; or

(b) Consistent with 24 C.F.R. §§ 960.204(a)(4), 24 C.F.R. § 5.856, any conviction that leads to the person becoming subject to a lifetime registration requirement under a State sex offender registration program; or

(c) Any conviction in which the person is deemed a "violent offender" under KRS § 439.3401. A violent offender means any person who has been convicted of or pled guilty to the commission of:

(i) A capital offense;

(ii) A Class A felony;

(iii) A class B felony involving the death of the victim or serious physical injury to a victim;

(iv) An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer, firefighter, or emergency medical services personnel while the peace officer, firefighter, or emergency medical services personnel was acting in the line of duty;

(v) A Class B felony involving criminal attempt to commit murder under KRS 506.010 if the victim of the offense is a clearly identifiable peace officer, firefighter, or emergency medical services personnel acting in the line of duty, regardless of whether an injury results;

(vi) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;

(vii) Use of a minor in a sexual performance as described in KRS 531.310;

(viii) Promoting a sexual performance by a minor as described in KRS 531.320;

(ix) Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);

(x) Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;

(xi) Criminal abuse in the first degree as described in KRS 508.100;

(xii) Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;

(xiii) Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040;

(xiv) Robbery in the first degree;

(d) Any conviction or plea to any crime involving felony arson under Kentucky Revised Statute;

(e) Any conviction or plea for felony criminal mischief under Kentucky Revised Statute;

(f) Consistent with 24 C.F.R. §§ 960.204(a)(3) and 24 C.F.R. 982.553 (a)(1)(ii)(C), conviction of drug related criminal activity for manufacture or production of methamphetamine on the premises of federal assisted housing;

(g) Consistent with 24 C.F.R. §§ 960.204(a)(1), 24 C.F.R. 5.854(a), and 24 C.F.R. 553(a)(1)(i), for three years from the date of eviction, the household member has been evicted from federally assisted housing for drug-related criminal history;

(h) Consistent with 24 C.F.R. §§ 960.204(a)(2), 24 C.F.R. § 5.854(b)(1), and 23 C.F.R. 982.553(a)(1)(ii)(A) if any household member is currently engaging in illegal use of a drug;

(i) Consistent with 24 CFR § 982.552(c)(iv), Section 8 based assistance is expressly prohibited if any member of the household has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal Housing program;

(j) Consistent with 24 C.F.R. §§ 5.855(a) and 24 C.F.R. 982.553(a)(2)(ii) Section 8 based assistance and Federally assisted housing is expressly prohibited if any household member is currently engaged in, or has engaged in during a reasonable time before the admission:

(i) Drug-related activity;

(ii) Violent criminal activity;

(iii) Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

(iv) Other criminal activity which may threaten the health or safety of the owner, property management staff, or person performing a contract administration function or responsibility on behalf of the PHA.

.....

SECTION IV: This Ordinance shall take effect upon its passage and approval, except with regard to the references to “Lawful Source of Income,” which shall become effective on March 1, 2021.

Sonya Harward
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approved Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____

O-395-19 -Housing Ordinance (FABS 11-19-20)