

VILLAGE OF BARTLETT

COMMITTEE AGENDA

AUGUST 4, 2020

BUILDING & ZONING, CHAIRMAN HOPKINS

Fair Housing Ordinance



Agenda Item Executive Summary

Item Name Fair Housing Ordinance Committee or Board Committee

BUDGET IMPACT

Amount:	N/A	Budgeted	N/A
List what fund	N/A		

EXECUTIVE SUMMARY

The Staff is requesting to amend the Bartlett Municipal Code to add Title 14, Chapter 1: Housing Policy Ordinance which includes the proposed **Fair Housing Ordinance**. This ordinance includes definitions, the prohibition of discrimination and penalties.

A Fair Housing Ordinance is required as part of the Village's grant request for the Wastewater Treatment Plant under the Rebuild Illinois Program from the Department of Commerce and Economic Opportunity. The Staff has been notified that moving forward, all State grants will now require municipalities to have adopted a Fair Housing Ordinance.

In addition, this Ordinance is required to enable the Village to apply for Community Development Block Grants (CDBG) from the DuPage County Community Development Commission (CDC) to fund projects that will meet the needs of low to -moderate income neighborhoods in Bartlett.

The following communities currently have a Fair Housing Ordinance:

Addison
Bensenville
Carol Stream
Glen Ellyn
Glendale Heights
Lombard
Villa Park
Warrenville
West Chicago
Westmont
Woodridge
DuPage County

ATTACHMENTS

Memo and Draft Ordinance


ACTION REQUESTED

- For Discussion Only - To review and forward to the Village Board for adoption
- Resolution
- Ordinance
- Motion

Staff Roberta Grill, Planning & Development Services Director Date: 07.22.2020

PLANNING AND DEVELOPMENT SERVICES MEMORANDUM

20-88

DATE: July 22, 2020
TO: Paula Schumacher, Village Administrator
FROM: Roberta B. Grill, PDS Director 
RE: Fair Housing Ordinance

Attached for the Committee's review is an amendment to the Municipal Code to add new Title 14: Housing Policy Ordinance, Chapter 1: Fair Housing Ordinance. This ordinance includes definitions, the prohibition of discrimination and penalties

A Fair Housing Ordinance is required as part of the Village's grant request for the Wastewater Treatment Plant under the Rebuild Illinois program from the Department of Commerce and Economic Opportunity. The Staff has been notified that moving forward, all State grants will now require a municipality to have adopted a Fair Housing Ordinance.

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Staff recommends forwarding the proposed ordinance to the Village Board for adoption.

ORDINANCE 2020 - _____

**AN ORDINANCE AMENDING THE BARTLETT MUNICIPAL CODE
TO ADD NEW TITLE 14, CHAPTER 1 THERETO AND TO ADOPT
THE FAIR HOUSING ORDINANCE OF THE VILLAGE OF BARTLETT**

BE IT ORDAINED by the President and Board of Trustees of the Village of Bartlett, Cook, DuPage and Kane Counties, as follows:

SECTION ONE: The Bartlett Municipal Code is hereby amended to create and add thereto new Title 14 entitled "HOUSING POLICY ORDINANCE", and to pass and adopt the FAIR HOUSING POLICY ORDINANCE OF THE VILLAGE OF BARTLETT, codified and added thereto as new Title 14, Chapter 1, of the Bartlett Municipal Code as follows:

**TITLE 14
HOUSING POLICY ORDINANCE**

**CHAPTER 1
FAIR HOUSING ORDINANCE**

- 14-1-1: TITLE:
- 14-1-2: PURPOSE AND DECLARATION OF POLICY:
- 14-1-3: CONSTRUCTION:
- 14-1-4: DEFINITIONS:
- 14-1-5: DISCRIMINATION PROHIBITED:
- 14-1-6: EXEMPTIONS:
- 14-1-7: DISCRIMINATION IN LENDING:
- 14-1-8: REFUSALS TO DEAL IN LENDING:
- 14-1-9: COVERAGE:
- 14-1-10: PRIVATE REMEDIES:
- 14-1-11: SEVERABILITY:
- 14-1-12: PENALTY:

1-14-1: TITLE:

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

1-14-2: PURPOSE AND DECLARATION OF POLICY:

It is hereby declared to be the policy of the Village 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 Village, and for the maintenance and promotion of commerce, industry, and good government in the Village, and to promote and protect fair housing opportunities throughout the Village 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 Village of Bartlett, 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.

14-1-3: 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.

14-1-4: DEFINITIONS:

For the purpose of this Chapter:

<i>AGE CLASSIFICATION.</i>	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."
<i>CHILD.</i>	Any person under the age of eighteen (18) who is a member of a family as that term is defined in 10-2-2 of the Bartlett Zoning Ordinance.
<i>COVERED MULTIFAMILY DWELLING.</i>	<p>For the purposes of this Chapter, the term "covered multi-family dwelling" applies only to newly constructed dwellings as defined in Section 14-1-5: in Subsection V.2.c., and shall consist of:</p> <ul style="list-style-type: none"> 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.
<i>DISABILITY.</i>	<p>With respect to a person:</p> <ul style="list-style-type: none"> 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).
<i>DISCRIMINATION.</i>	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.

<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 Bartlett Zoning Ordinance, Title 10 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 Section 14-1-6, subsection V.2.a. of the Bartlett 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.
<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.
<i>LEASE or LEASING.</i>	Includes and means rent, renting, assignment, sublease and subletting.
<i>LENDING INSTITUTION.</i>	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.
<i>MANAGER.</i>	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 Village and performs or employs others to perform the services associated with the letting and maintenance of said rental units.
<i>OWNER.</i>	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 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 Village 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.
<i>SOURCE OF INCOME.</i>	The lawful manner by which an individual supports himself or herself and his or her dependents.
<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.

14-1-5: 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) 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 Village, 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 14-1-7 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 Village.
- 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 Village (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.
- 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 in the Village 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 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.
- 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. *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.
- J. *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 or national origin of the residents in the area in which the property is located.
- K. *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 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.
- L. *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, 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. *Evasion*. Employ any person as a salesman or agent as a means of evading provisions of this Chapter.
- N. *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. *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. *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. *Insurance*. Discriminate in the sale of insurance in connection with real estate.

R. *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 of persons in the area or purported to be moving into the area.

S. *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.
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 or national origin.

T. *Aid or Abet*. Discriminating by aiding or abetting acts performed in violation of this Chapter.

U. *Coercion*. Coercion, intimidation, 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. *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.

14-1-6: 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 14-1-5: 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.

14-1-7: 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 14-1-5:C. of this Chapter.)

14-1-8: 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.

14-1-9: 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 Village, 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 Village; 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.

14-1-10: 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.

14-1-11: 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.

14-1-12: PENALTY:

Any person violating the provisions of this Chapter shall be fined not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each such offense. Every day a violation continues may be deemed a separate offense by appropriate finding.

SECTION TWO: REPEAL OF PRIOR ORDINANCES. All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION THREE: EFFECTIVE DATE. This Ordinance shall be in full force and effect upon its passage and approval.

ROLL CALL VOTE:

AYES:

NAYS:

ABSENT:

PASSED:

APPROVED:

ATTEST:

Kevin Wallace, Village President

Lorna Giless, Village Clerk

CERTIFICATION

I, Lorna Giles, do hereby certify that I am the Village Clerk of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, and that the foregoing is a true, complete and exact copy of Ordinance 2020-_____ enacted on _____, 2020 and approved on _____, 2020 as the same appears from the official records of the Village of Bartlett.

Lorna Giles, Village Clerk