AM No. 12-010

MEMO TO: City Council

FROM: John Marchione, Mayor

DATE: January 17, 2012

SUBJECT: **PUBLIC HEARING: PROPOSED ORDINANCE PROHIBITING REFUSAL TO RENT BASED ON SECTION 8 PAYMENT**

I. RECOMMENDED ACTION

Adopt the proposed ordinance prohibiting refusal to rent based solely on use of Section 8 Vouchers as a form of payment.

II. DEPARTMENT CONTACTS

Rob Odle, Director, Planning and Community Development, 425-556-2417
Colleen Kelly, Human Services Manager, 425-556-2423
Arthur Sullivan, Program Manager, ARCH, 425-861-3677

III. DESCRIPTION/BACKGROUND

About Section 8 Vouchers

Section 8 Vouchers are also referred to as housing choice vouchers. The housing choice voucher program is a program of the federal government which assists very low-income families, the elderly, and the disabled, to afford decent, safe, and sanitary housing in the private market. Since housing assistance is provided on behalf of the family or individual, participants are able to find their own housing. The participant is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects.

Housing choice vouchers are administered locally by the King County Housing Authority (KCHA) which receives funds from the U.S. Department of Housing and Urban Development (HUD) to operate the voucher program. A family that is issued a housing voucher is responsible for finding a suitable housing unit of the family's choice where the owner agrees to rent under the program. The voucher holder is advised of the unit size for which it is eligible based on family size and composition. Rental units must meet minimum standards of health and safety, as determined by the KCHA.

Housing Vouchers - How Do They Function?

The KCHA determines a payment standard that is the amount generally needed to rent a moderately-priced dwelling unit in the local housing market and that is used to calculate the amount of housing assistance a family will receive; however, the payment standard does not limit and does not affect the amount of rent a landlord may charge or the family

may pay. A family which receives a housing voucher can select a unit with a rent that is below or above the payment standard.

The housing voucher family must pay 30 percent of its monthly adjusted gross income for rent and utilities; and if the unit rent is greater than the payment standard, the family is required also to pay the additional amount. A housing subsidy is paid to the landlord directly by the KCHA on behalf of the participating family. The family then pays the difference between the actual rent charged by the landlord and the amount subsidized by the program.

Recent Activity Locally

Earlier this year, it came to the attention of staff that the Archstone Company had notified all tenants utilizing Section 8 vouchers as part of their payment that those leases would not be extended under the same terms. This meant that tenants unable to pay market rate rent on their own would be forced to move when their leases expired. At the time that Archstone adopted their new policy, their Redmond property had 19 units rented to households receiving assistance through Section 8 Vouchers. Over the past few years there have been approximately 250 households in Redmond using Section 8 Vouchers at any given time.

Upon investigating further, staff was informed that this was a business decision being applied throughout the company, except for its buildings in jurisdictions that explicitly prohibit discrimination by landlords based solely on source of income. Bellevue, Seattle and King County (for unincorporated areas) have such ordinances in place. Subsequently, Archstone modified its position slightly by agreeing to extend the leases of existing tenants using housing choice vouchers, but continuing to decline to enter into any new leases using that program.

The Archstone action prompted staff to begin exploring the question of whether Redmond should introduce an ordinance similar to the one on record in Bellevue, and on October 4, 2011, ARCH staff and City staff presented a draft ordinance to the Parks and Human Services Committee for initial conversation. Direction at that time was to schedule the topic for a study session, which was subsequently held on November 29, 2011.

In late October 2011 staff learned that another company, Avalon Bay, had also sent a letter informing its tenants that Section 8 Vouchers will no longer be accepted as a form of payment, and tenants relying on that assistance would need to move when their leases expire. It now appears that there was only one current tenant likely to be affected by this new policy and that tenant has since been informed that she will not be forced to move. It does appear, however, that like Archstone, Avalon Bay intends to deny consideration to future tenants who need to pay a portion of their rent using Section 8 Vouchers.

Key Issues and Considerations

Access to affordable housing is consistently identified as the greatest barrier to families and individuals being able to build or rebuild a solid foundation. In many cases, this assistance allows individuals to maintain employment, though often not at a wage sufficient to fully afford market rate housing. In addition to work the City is doing to expand affordable housing options, it is critical that we work to maintain those options already in place.

Another consideration in establishing such an ordinance is whether private property owners are unduly constrained in the use of their properties if they are required to consider applicants with Section 8 Vouchers. There may be differing perspectives on this question, but staff notes that in King County (outside Seattle); over 8,000 households are using Section 8 assistance, mostly in privately-owned housing. Also, during interviews of managers of Redmond properties that changed their policies regarding Section 8, they noted there were no particular difficulties with the residents that had the Section 8 assistance, and the decision was more based on corporate direction and not specific experiences with residents at their property.

The following is taken from the *Landlord Participation Manual:* "Depending on the complexity of situation (i.e., level of rent, unit failing inspections, contract return delayed by the owner, etc.) total time for lease up and payment could take as little time as a week to as much as six weeks. Each situation is different. The only extra cost to a landlord for participation on the program is if the landlord chooses to lower the rent or pay to fix deficiencies found through the inspection in order to have their unit qualify. There is no fee for participating on the Section 8 program."

Finally, having such an ordinance will lead to a certain amount of staff time being needed to follow up if there are complaints of discrimination. Bellevue staff noted that investigation of such complaints often reveal other factors contributed to households being denied housing.

The City Council will be holding a public hearing regarding the proposed ordinance at its meeting on January 17, 2012. In addition to having been invited to submit comments in writing, individuals wishing to directly address the Council on this topic will have the opportunity to do so at this hearing. At the conclusion of the testimony and any additional discussion, the Council may choose to close the hearing or to keep the hearing open for additional information. If the hearing is closed, the Council has the option to take action on the proposed ordinance immediately.

Outreach Efforts

Based on the assumption that both landlords and tenant groups might be particularly interested in this issue in general and the draft ordinance in particular, staff made significant efforts to ensure awareness of the City's actions and the scheduled public hearing. Of course, the notice of public hearing was published as required. In addition, the following groups were contacted directly:

- National Association of Residential Property Managers, King County Chapter (several representatives)
- King County Housing Authority
- Tenant's Union of Washington
- Washington Multi-Family Housing Association
- Housing Development Consortium
- Affordable Housing Manager's Association
- Hopelink Housing Programs

IV. IMPACT

There are no direct fiscal impacts to the City should this ordinance be adopted, though there may be some impact on staff time as noted above. There are service delivery impacts for residents in terms of ensuring greater access to housing options for those enrolled in the Section 8 Program.

V. ALTERNATIVES

A. The Council may adopt the proposed ordinance which would then go into effect five days after publication of the ordinance title in the City's newspaper of record.

B. The Council may choose to amend the ordinance and then adopt the ordinance which would then go into effect five days after publication of the ordinance title in the City's newspaper of record.

C. The Council may choose to continue the public hearing and take action on the proposed ordinance at a later date.

D. The Council may reject the proposed ordinance.

VI. TIME CONSTRAINTS

There are no particular time constraints, although prompt action may prevent additional attempts to prohibit units being rented to participants in the Section 8 Program.

VII. LIST OF ATTACHMENTS:

Attachment A: Proposed Ordinance

Robert G. Odle, Director, Planning and Community Development — Date: 1/6/2012

Approved for Council Agenda — John Marchione, Mayor — Date: 1/9/12

ATTACHMENT A

CODE

CITY OF REDMOND
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, ADOPTING RMC CHAPTER 6.38, PROHIBITING THE REFUSAL TO RENT A DWELLING UNIT SOLELY ON THE BASIS THAT A TENANT PROPOSES TO RENT PURSUANT TO A SECTION 8 HOUSING VOUCHER OR CERTIFICATE, AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, access to affordable housing is consistently identified as the greatest barrier to families and individuals being able to build or rebuild a solid foundation; and

WHEREAS, the Section 8 voucher program is a program of the federal government which assists very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market; and

WHEREAS, it has come to the attention of the Redmond City Council that some property owners in Redmond may refuse to rent to tenants proposing to utilize a Section 8 voucher or certificate; and

WHEREAS, after holding a public hearing, the Redmond City Council has determined that prohibiting the refusal to rent a dwelling unit solely because the tenant proposes to do so using a Section 8 voucher or certificate will further the City's

policies on affordable housing and promote the public health, safety, and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Adoption of Chapter. RMC Chapter 6.38, Refusal to Rent Based Solely on Section 8 Voucher or Certificate Request Prohibited, is hereby adopted to read as follows:

Chapter 6.38
REFUSAL TO RENT BASED SOLELY ON SECTION 8 VOUCHER OR CERTIFICATE REQUEST PROHIBITED

Sections:
6.38.010 Purpose.
6.38.020 Prohibitions
6.38.030 Exceptions.

6.38.010 Purpose.

(A) The Redmond council finds and declares that practices of housing discrimination against any persons on the basis of participation in the Section 8 program constitute matters of local concern and are contrary to the public welfare, health, peace and safety of the residents of Redmond.

6.30.020 Prohibitions

(A) No person shall refuse to rent a dwelling unit to any rental applicant solely on the basis that the applicant proposes to rent such unit pursuant to a

Section 8 voucher or certificate issued under the Housing and Community Development Act of 1974 (42 USC 1437(F)); provided this section shall only apply with respect to a Section 8 certificate if the monthly rent on such residential unit is within the limits of fair market rent as established by the Department of Housing and Urban Development. "Dwelling unit" shall have the meaning set forth in RZC 21.78.

6.30.030 Exceptions

(A) Nothing in this chapter shall:

(1) apply to the renting, sub-renting, leasing, or subleasing of a single-family dwelling, wherein the owner or person entitled to possession thereof maintains a permanent residence, home or abode;

(2) be interpreted to prohibit any person from making a choice among prospective purchasers or tenants of real property on the basis of factors other than participation in a Section 8 program, the presence of any disability, or the use of a trained dog guide or service animal by a disabled person where such factors are not designed, intended or used to discriminate;

(3) prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on the basis of race, color, or national origin;

(4) be construed to prohibit treating disabled persons more favorably than persons who are not disabled;

(5) be construed to protect criminal conduct; and

(6) prohibit any person from limiting the rental or occupancy of a dwelling based on the use of force or violent behavior by an occupant or prospective occupant, including behavior intended to produce or incite imminent force or violence to the

person or property of the owner, manager, or other agent of the owner.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance shall take effect five (5) days after passage and publication of an approved summary consisting of the title, or as otherwise provided by law.

ADOPTED by the Redmond City Council this _____ day of _____, 2012.

CITY OF REDMOND

_____
JOHN MARCHIONE, MAYOR

ATTEST:

_____ (SEAL)
MICHELLE M. MCGEHEE, MMC, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

_____
JAMES HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
SIGNED BY THE MAYOR:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.