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# Oakland's New Fair Chance Access to Housing Ordinance

Reclaiming Humanity & Housing Rights

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## Transformative Justice Process in Berkeley & Oakland

- Led by formerly incarcerated people and their family members
- Centered the lived experiences of those most impacted + public policy research & data
- Partnership w/ government leaders
- Policy terms considered actual implementation
- Engaged landlords and housing providers



# The National Movement for Fair Chance Housing

- Berkeley and Oakland Ordinances are the Nation's Gold Standard for Fair Chance Housing laws
- National game changers: NYC and Washington State are working on Fair Chance Housing policies
- Policy comparison document:  
[https://static1.squarespace.com/static/5d3a3edf4508ff00014b406f/t/5fd168448ba64b78df48a6f7/1607559237612/JustCities\\_FCH\\_PolicyComparisonChart.pdf](https://static1.squarespace.com/static/5d3a3edf4508ff00014b406f/t/5fd168448ba64b78df48a6f7/1607559237612/JustCities_FCH_PolicyComparisonChart.pdf)

# Fair Chance Housing Summary

Oakland and Berkeley Fair Chance Housing expands housing access by prohibiting criminal background checks  
PERIOD\*

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Housing providers are **generally prohibited from using criminal background checks** in rental advertising, applications, decisions, or evictions

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Applies to **all forms of housing**, including private, Section 8, and affordable

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**Housing providers maintain discretion** (no first-in-time rule) and can consider criteria directly related to being a good tenant: i.e. credit scores, income requirements, employment verification, eviction history and previous landlord references

\*OMC 8.25

# Violations of the Fair Chance Housing Ordinances\*

Fair Chance Housing expands housing access by prohibiting criminal background checks

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- Refusing to rent to someone on the basis of criminal history
  - Refusing to continue to rent or lease housing to someone on the basis of criminal history
  - Reducing and/or shortening the amount and/or term of any tenant subsidy for housing
  - Treating formerly incarcerated applicants/tenants differently from other applicants/tenants (for example, requiring higher rent, security deposit etc.)
  - Treating individuals as ineligible for tenant-based rental assistance programs (including Section 8)
  - Preventing a close family member of a formerly incarcerated person from adding them to their household

\*OMC 8.25

## Exceptions to the Ordinance\*

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- If required by Federal law, housing providers of **HUD funded units** can conduct limited criminal background checks **ONLY** after a conditional offer has been made, the applicant has consented, and the applicant is allowed to provide mitigating information.
  - Under certain circumstances, housing providers may review the **State's lifetime sex offender registry** **ONLY** after a conditional offer has been made, the applicant has consented, and been allowed to provide mitigating information.
  - Single-family homes, duplexes, triplexes, and ADUs (Accessory Dwelling Units) where the **owner occupies** one of the units or bedrooms as a principal residence.
  - **Current tenants** who are adding a roommate may run a criminal background check.

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# Enforcement\*

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Applicants who believe a housing provider has violated the Ordinance can file a complaint with the City and/or file a lawsuit

- a. The City may issue civil penalties of up to \$1,000 per violation.
- b. The City may also file an enforcement action in Court against a housing provider.
- c. Applicants and the close family members of formerly incarcerated residents who believe that they were prevented from adding a family member with a criminal record to their housing unit or were subjected to other adverse action can also file a complaint with the City and/or bring a lawsuit.

\*OMC 8.25

# Family Member Rights\*

- **Close family members of formerly incarcerated people can take legal action** if they are subjected to adverse actions, including:
  - Being prevented from adding a close family member with a criminal history to their household
  - Being told that they can no longer rent their unit due to an occupant having a criminal history
  - Having a tenant subsidy reduced or shortened
  - Being treated differently from other tenants or applicants
- Close family members include a spouse, domestic partners, parents, children, siblings, grandparents, grandchildren.
- **Close family members can only file a complaint on behalf of their formerly incarcerated family member if the housing of the close family member is directly impacted**
  - Ex: a family member can **only** file a complaint for violations of the Ordinance if they are applying to a new place with their formerly incarcerated family member, their formerly incarcerated family member already lives with them, or is seeking to move in with them

\*OMC 8.25



# Notice Requirements\*

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- Housing Providers must include the Notice to Applicants and Tenants provided by the City of Oakland prominently on their application materials, websites, and at any locations under their control that are frequently visited by applicants.
  - The Notice to Applicants and Tenants can also be found on the City of Oakland's website at <https://www.oaklandca.gov/resources/fair-chance-access-to-housing-ordinance>

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# Annual Certification of Compliance Requirements\*

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- Affordable Housing Providers must annually submit a certification form verifying compliance with the Fair Chance Housing Ordinance.
  - The Certification form is structured as a simple checklist to verify compliance with the Ordinance
  - The Annual Certification Form for Affordable Housing Providers will be located on the City of Oakland's website at: <https://www.oaklandca.gov/resources/fair-chance-access-to-housing-ordinance>\*
  - \* Note: the Certification form is in the process of being finalized and will soon be available

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# Additional Resources

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For more information from the City, contact:

**City of Oakland**  
**Housing and Community Development**  
**Department**

250 Frank Ogawa Plaza, Suite 6301  
Oakland, CA 94612  
(510) 238-6182  
[oaklandca.gov/topics/housing-resource-center](https://oaklandca.gov/topics/housing-resource-center)  
Or email, [housingassistance@oaklandca.gov](mailto:housingassistance@oaklandca.gov)

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For a detailed FAQ on Fair Chance Housing for Housing Providers vetted by the City Attorney's Office, visit:

**Alameda County Fair Chance Housing Coalition**  
<https://fairchance4all.org/resources>

# Where to Access Mediation Services

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## **SEEDS**

2530 San Pablo Ave. Suite A,  
Berkeley, CA 94702  
510-548-2377  
info@seedscrc.org  
[Seedscrc.org](http://Seedscrc.org)

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## **Oakland Rent Adjustment Program**

250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA  
94612  
Call (510) 238 - 3721 during normal business hours  
Monday - Friday, 9:30 am - 4:30 pm  
Email: [rap@oaklandca.gov](mailto:rap@oaklandca.gov)  
[www.oaklandca.gov/rap](http://www.oaklandca.gov/rap)

# Participatory Impact Evaluation Study

Just Cities is conducting the first Participatory Impact Evaluation Study of Fair Chance Housing in the Country!

## Objectives

1. **Center the voices of those most impacted** to define and participate in the impact evaluation. Indicators will focus on improved sense of belonging, social cohesion, and hope for change among participants
2. Identify the **extent to which formerly incarcerated people were able to access housing**, including living with family members
3. Identify **ongoing barriers to housing**
4. Examine the relationship between **housing stability, support services, and successful reintegration**
5. Examine whether the removal of legal discriminatory barriers to housing resulted in **unintended consequences**

## Help us by participating!

Housing providers will be surveyed and interviewed in order to ascertain the effectiveness of the Fair Chance Housing policy, and whether there were unintended consequences