



# TOWN COUNCIL

## WORKSHOP AGENDA DOCUMENTATION

**PREPARATION DATE:** September 12, 2018  
**MEETING DATE:** September 17, 2018

**SUBMITTING DEPARTMENT:** Legal  
**DEPARTMENT DIRECTOR:** Audrey Cohen-Davis  
**PRESENTER:** Audrey Cohen-Davis

**SUBJECT: Draft Policies and Procedures for Housing Ombudsman Program and Draft Ordinance Establishing the Office of the Housing Ombudsman in the Town of Jackson**

### PURPOSE OF WORKSHOP ITEM

The purpose of this item is to provide Town Council with draft policies and procedures and a draft ordinance establishing the Office of the Housing Ombudsman to assist with residential housing issues.

### DESIRED OUTCOME

To determine Council's policy preferences regarding the structure of housing ombudsman program and the general framework for the Housing Ombudsman position in the Victim Services division of the Jackson Police Department.

### BACKGROUND/ALTERNATIVES

At the June 18, 2018 Town Council workshop, staff was directed to structure the Ombudsman program within the Town of Jackson and to lay out the general framework for the Ombudsman position within the Victim Services Department of the Jackson Police Department.

Prior to the June workshop, at the March 19, 2018 Town Council Workshop, the Town Council voted to create an ombudsman program with the following responsibilities:

1. Generally assist with community education and awareness of the residential rental housing rights and laws, and coordinate with other agencies concerned with such issues.
2. Evaluate the facts of an individual matter and direct citizens to the right avenue of recourse (assist with setting up a mediation or point a citizen to Teton County Access to Justice) and/or the proper venue for recourse (state or federal discrimination matter versus the state circuit or district court).
3. Be granted investigative powers, in order to assist in resolving problems and grievances between a landlord and a tenant.
4. Document, identify issues and problems with residential rentals and landlord-tenant relationships, and recommend needed changes.

The attached draft policies and procedures set forth a structure for the Town of Jackson Housing Ombudsman Program like such programs on the state level and consistent with the directive of the Town Council. Also attached is a draft Ordinance establishing the Office of the Housing Ombudsman at the Town of Jackson.

### ALIGNMENT WITH TOWN COUNCIL'S STRATEGIC INTENT

This item aligns with Town Council's intent to deliver quality services and facilities in a fiscally responsible and coordinated manner and to sustain Jackson's unique character and continue to be the primary location for jobs, housing, shopping, educational and cultural activities by ensuring safe, healthy housing options for residents.

## STAKEHOLDER ANALYSIS

The public at large, renters and rental property owners are the stakeholders.

## FISCAL IMPACT

\$10,000 was adopted into the FY2019 budget for the ombudsman program to cover the additional salary for the Office of the Ombudsman services provided by the Victim Services Division of the Jackson Police Department.

The fiscal impact of passage of an ordinance varies between \$250.00 and \$700.00 depending on the length of the ordinance. (Shorter ordinances average around \$350.00 and short franchise ordinances can reach \$700.00.) They appear in the newspaper the Wednesday following Town Council's action on third reading (two (2) days later). Should Town Council make changes to the ordinance on third reading, the ordinance would need to be re-advertised in its final form.

## STAFF IMPACT

Significant staff time has been spent by the legal department to research ombudsman programs around the state and country, drafting the attached policies and procedures and ordinance, and meeting with the Chief of Police regarding the structure of this program within the Victim Services Division of the Jackson Police Department. The Chief of Police and Victim Services also spent time considering and reviewing the attached and assisting the legal department.

The staff impact of passage of ordinances after second reading is notable in the Town Clerk's office and involves preparing the ordinance for advertising and sending to the newspaper, updating the Jackson Municipal Code online and in hard copy for those receiving hard copy versions of the code. The ordinance is also printed and signed and placed in the permanent record storage book in the vault and indexed and posted on the website. The ordinance is also prepared and sent to the newspaper for advertising

## LEGAL ISSUES

Legal review is ongoing.

## ATTACHMENTS

- 1) Draft Policies and Procedures for the Town of Jackson Housing Ombudsman Program
- 2) Draft Ordinance establishing the Office of Housing Ombudsman

## RECOMMENDATION

Staff has no recommendation at this time.

## SUGGESTED MOTION

I move to direct staff to: \_\_\_\_\_.

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Synopsis for PowerPoint (120 words max):

Purpose:

The purpose of this item is to provide Town Council with draft policies and procedures and a draft ordinance establishing the Office of the Housing Ombudsman to assist with residential housing issues.

Background:

At the June 18, 2018 Town Council workshop, staff was directed to structure the Ombudsman program within the Town of Jackson and to lay out the general framework for the Ombudsman position within the Victim Services Department of the Jackson Police Department.

Fiscal Impact:

\$10,000 was adopted into the FY2019 budget for the ombudsman program/ contract/services. The fiscal impact of passage of an ordinance varies between \$250 and \$700 depending on the length of the ordinance. (Shorter ordinances average around \$350 and short franchise ordinances can reach \$700.) They appear in the paper the Wednesday following Town Council's action on third reading (two (2) days later).

Town of Jackson  
Housing Ombudsman  
Program  
Policies & Procedures  
Manual

## ***Introduction***

### ***Authority:***

The Town of Jackson Housing Ombudsman Program (TOJHOP) is created by virtue of W.S. 15-1-103(xli) for the health, safety and welfare of citizens seeking housing in the Town of Jackson, Wyoming and by Ordinance \_\_\_\_\_. The Town of Jackson Town Council is the governing body with policy and oversight responsibility for the TOJHOP.

### ***Purpose:***

The purpose of the TOJHOP is to act on behalf of persons who are seeking residential housing, have obtained residential housing, or who offer or provide residential housing to the public within the Town of Jackson, Teton County, Wyoming; to assist with community education and awareness of the residential housing rights and laws, the Town of Jackson non-discrimination ordinance and to coordinate with other agencies concerned with such issues; to evaluate the facts of an individual matter and direct tenants, landlords and persons to the right avenue of recourse and/or the proper venue for recourse for conflicts; assist in resolving problems and grievances between a landlord and a tenant; and to document, identify issues and problems with residential rentals and landlord-tenant relationships and recommend needed changes to laws to the Town of Jackson Town Council.

### ***Applicability:***

These policies and procedures govern the actions of the Town of Jackson Office of the Town of Jackson Housing Ombudsman, designated entities, and others involved in the provision of the TOJHOP.

## *Definitions*

**Advocacy.** The ombudsman works on behalf of a person seeking a residential rental unit or a resident or owner or landlord of a residential rental unit in resolving complaints that have been substantiated and need specific strategies developed to alleviate the problem that was identified. Advocacy could take the form of negotiating with a landlord or a tenant in an attempt to resolve a problem or dispute.

**Case.** One or more complaints brought to, or initiated by, the Housing Ombudsman in which the ombudsman is actively involved and/or which the Housing Ombudsman investigates and works to resolve. The number of cases is equivalent to the number of complainants.

**Client.** An adult, aged 18 and older seeking assistance regarding residential rental housing in the Town of Jackson, Wyoming.

**Code of Ethics.** A guiding set of principles, rules of conduct, and moral values under which an Ombudsman performs services for TOJHOP clients.

**Complaint.** A concern brought to, or initiated by, the Housing Ombudsman for investigation and action on behalf of one or more residents and relating to the health, safety, welfare, or rights of a resident.

**Conflict of Interest.** Any interest that is, or may be, in conflict with the purpose, interests and concerns of the Client.

**Consultation.** Providing information and assistance to an individual or a facility. It does not involve investigating or working to resolve complaints.

**Provider Agency.** An organization that provides services outlined in an approved contract with the Town of Jackson Town Council for the Town of Jackson Housing Ombudsman Program.

**Landlord.** A person or organization that provides residential housing to tenants within the Town of Jackson.

**Landlord Rights.** The basic protections that landlords of residential housing within the Town of Jackson are entitled to under local, state of Wyoming or federal laws.

**Person.** A natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

**Resident.** A person occupying a Residential Rental for a term of more than one calendar month as defined in section 5.65.020 of the Jackson Municipal Code.

**Resident Representative.** An individual chosen by the resident to act on their behalf in order to support the resident in decision-making; access information of the resident; or receive notifications.

**Resident rights.** The basic human rights that residents of housing within the Town of Jackson are entitled to under local, state of Wyoming or federal laws.

**Residential Rental.** The rental of all or a portion of a residential unit in the Town of Jackson such that occupancy is for a term of more than one calendar month, as defined in section 5.65.020 of the Jackson Municipal Code.

## ***Town of Jackson Residential Housing Ombudsman Program***

### ***Role and Responsibility in Administering the Program***

The Jackson Police Department, Division of Victim Services, shall establish and operate an Office of the Town of Jackson Housing Ombudsman in order to carry out and operate the Town of Jackson Housing Ombudsman Program. The Town Council of the Town of Jackson may also designate or contract with another public agency or private nonprofit organization to establish and operate the Office, or to assist in carrying out the objectives of the Program.

### ***Town of Jackson Residential Housing Ombudsman Responsibilities***

The Town of Jackson Housing Ombudsman responsibilities includes, but are not limited to the following:

- Direct and administer the functions and budget of the Office of the Ombudsman in accordance with the directives of the Town of Jackson Town Council and Town Ordinances applicable;
- Develop and maintain relationships with public and private stakeholders;
- Allocate resources as appropriate and budgeted by the Town Council;
- Educate residents staff, and the general public;
- Train, supervise, and provide programmatic direction and oversight to all Town Housing Ombudsman;
- Each year, the Town Housing Ombudsman coordinator shall develop a systems advocacy agenda, in consultation with the Town Manager and Town Attorney;
- Analyze, comment on and monitor the Federal, State, and local laws, regulations, and other policies and actions that pertain to the health, safety, and welfare of persons seeking or living in residential housing in the Town of Jackson, Wyoming;
- Advocate for increased public awareness;
- Identify, investigate, and attempt to resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents, tenants or landlords in the Town of Jackson;

- Provide TOJHOP services to protect the health, safety, welfare, and rights of residents in accordance with the provisions of the Federal, State of Wyoming and local laws governing housing;
- Document all activities and case work;
- Make appropriate referrals to agencies or entities that can and will assist persons to meet their needs;
- Represent the interests of residents and landlords and ensure that they have the opportunity to access and pursue administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents and landlords;
- Ensure that persons have regular, timely access to representatives of the program and timely responses to inquiries;
- Carry out other activities, as deemed appropriate and assigned by the Chief of Police.
- Act as the official spokesperson for the Office of the Town of Jackson Ombudsman Program in accordance with the Federal, State and local laws and statutes, as applicable;
- Apprise the Town of Jackson, Town Council of all current issues relevant to the Office of the Town of Jackson Ombudsman;
- Make policy recommendations that are in the best interest of the Town of Jackson citizens who are in need of the Town of Jackson Housing Ombudsman Program;
- Adhere to the Ombudsman Code of Ethics;
- Maintain the TOJHOP records and data;
- Carry out such other activities as the Chief of Police determines to be appropriate;
- Prepare an annual report of the Town of Jackson Housing Ombudsman Program and, detailing the completed activities, goals, mission, data, and priorities of the Program. This report shall be made available to the following:
  - The public;
  - The Chief of Police;
  - The Town Council;
  - The Town Manager;
  - The Town Attorney's Office; and,
  - The Director of the Town of Jackson/Teton County Housing Department.

***Provider Agency Responsibilities***

- Carry out the duties set forth in the contract with the Town of Jackson for the TOJHOP;
- Shall not have personnel policies or practices which prohibit the Provider Agency from performing functions and responsibilities as set forth in the contract;
- Work alongside the Town of Jackson Housing Ombudsman;
- Prohibit inappropriate access and/or disclosure of the identity of any complainant or resident with respect to TOJHOP actions, details, files, or records;
- Administer the TOJHOP in accordance with all applicable Federal and State laws, regulations, and policies;
- Provide staff support as needed for the operation of the TOJHOP (i.e. mediation services, consultations); and
- Provide professional development opportunities for TOJHOP staff.



### ***Supervision of the Town of Jackson Housing Ombudsman***

The Town of Jackson Housing Ombudsman (Housing Ombudsman) is under the supervision of the Chief of Police. The lead Housing Ombudsman shall supervise associate ombudsman in the TOJHOP. If an issue arises in which there is a conflict between the lead Ombudsman and an associate ombudsman, then the lead Ombudsman shall contact the Chief of Police. If an issue arises in which there is conflict between the lead Ombudsman and the Chief of Police then the Housing Ombudsman shall contact the Town Manager. Often an issue that is programmatic will contain portions that are related to personnel as well, in these instances, the Housing Ombudsman, Chief of Police and Town Manager shall work together in resolving the issue.

### ***Designation of Ombudsman Program***

In carrying out the duties of the Town of Jackson Housing Ombudsman Program, the Town Council of the Town of Jackson shall establish and operate an Office of the Ombudsman; and may designate an entity as a Local Ombudsman service provider.

### ***Designation of Ombudsman Provider Agency***

The Town Council of the Town of Jackson may establish and operate the Office and carry out the program directly, or by contract with a public agency or private nonprofit organization.

#### **Criteria for Designation as a Provider Agency**

To be eligible for designation by the Town Council or TOJHOP as a provider agency, an entity must:

- Be a public or nonprofit entity;
- Not be an agency or organization responsible for licensing or certifying residential rentals;
- Not be an association or affiliate of an association of providers of residential rentals in the Town of Jackson;
- Have no financial interest in a residential rental;
- Demonstrate the capability to carry out the responsibilities required in the Town of Jackson Ordinances and Town of Jackson Housing Ombudsman Program;
- Have remedied all conflicts of interest; and
- Meet all contractual requirements of the Town of Jackson.

### ***De-designation of Ombudsman Provider Agency***

The Town Council of the Town of Jackson may de-designate an entity as a provider agency.

#### **Criteria for De-designation**

The Town Council or TOJHOP may refuse to designate or may de-designate an entity as a provider agency based upon one or more of the following:

- Failure to continue to meet the criteria for designation;
- Existence of an un-remedied conflict of interest;
- Deliberate failure to disclose any conflict of interest;

- Violation of Town of Jackson confidentiality requirements by any person employed by, supervised by, or otherwise acting as an agent of the provider agency;
- Failure to provide adequate Housing Ombudsman services;
- Failure to fill a vacant local Ombudsman position within a reasonable time;
- Failure to use funds designated for the Town of Jackson Housing Ombudsman Program as specified in the contract and corresponding attachments;
- Failure to adhere to the terms of the contract for the provision of Ombudsman services;
- Failure to adhere to Federal, State and local laws, regulations, and policies;

*Process for De-designation of a Provider Agency*

The process for de-designation of a provider agency shall be as follows:

- The Town of Jackson shall send written, dated notice of the intent to de-designate the provider agency;
- The written notice shall include reasoning for de-designation;
- The provider agency shall provide continued services during the process;
- The provider agency shall respond in writing to the notice within thirty (30) calendar days, outlining a plan to come into compliance; and
- If, after the thirty (30) day period, the provider agency does not come into compliance with the notice within fifteen (15) days, the Town Council of the Town of Jackson may terminate the portion of the contract between the provider agency and the Town which provides for assistance with Ombudsman services.

## ***Certification of Town of Jackson Housing Ombudsman***

The Chief of Police of the Town of Jackson certifies persons as Town of Jackson Housing Ombudsman to participate in the TOJHOP and to represent the Town of Jackson.

### ***Criteria for Certification as a Town of Jackson Housing Ombudsman***

To be certified as a Town of Jackson Ombudsman, an individual must meet the following minimum qualifications:

- Be 18 years of age or older;
- B.S./B.A. degree in Social work or related field or a minimum of one (1) year of experience working in victim services, human or social services;
- Pass a criminal background check;
- Be free of un-remedied conflicts of interest;
- Have the ability to comply with the Ombudsmen Code of Ethics;
- Comply with all applicable Federal, State of Wyoming laws and local regulations, and policies and procedures; and
- Successfully complete the certification training requirements set forth by the Town of Jackson stated in the *Training Manual for New Regional Ombudsmen*.

### ***Continuation of Certification as a Town of Jackson Housing Ombudsman***

In order to continue to be a Certified Town of Jackson Housing Ombudsman, an individual must:

- Complete at least twenty (20) hours of related continuing education each calendar year;
- Satisfactorily fulfill the Town of Jackson Housing Ombudsman responsibilities;
- After any absence of one (1) year or more from the TOJHOP the ombudsman must again complete the required certified Ombudsman training.

### ***Decertification or Refusal to Certify a Town of Jackson Housing Ombudsman***

. The Chief of Police shall have sole and final decision of decertification of an ombudsman or the refusal to certify an individual. A Housing Ombudsman shall be decertified or be refused certification for the following reasons, including, but not limited to:

- Leaving the employment of the designated provider agency;
- Failure to remedy a conflict of interest;
- Failure to disclose a conflict of interest;
- Violation of the confidentiality requirements set forth in this manual;
- Falsification of records;
- Failure to follow the direction of the Town of Jackson and provider agency regarding policies and procedures;
- Failure to act in accordance with Federal and State laws, regulations, and policies;
- Violation of the Ombudsman Code of Ethics; or
- Failure to meet the terms of a corrective action plan.
- Failure to meet the requirements of the position initially or on a continuing basis.

## ***Conflict of Interest***

The organizational placement of the TOJHOP and the persons who carry out the duties of the Office must be free from conflicts of interest.

### ***Definition of a 'Conflict of Interest'***

A conflict of interest exists in the TOJHOP when other interests intrude upon, interfere with, or threaten to negate the ability of the Ombudsmen to advocate without compromise on behalf of persons seeking, residing, offering or providing residential housing in the Town of Jackson. Town of Jackson lead and associate ombudsman and/or provider agencies shall have no conflict (unremedied) of interest which would interfere with performing the function of the position, to include:

- Direct prior involvement with a tenant or landlord seeking services of the TOJHOP, including those set forth under organizational conflicts below;
- Ownership or investment interest, represented by equity, debt, or other financial relationships in a residential rental housing facility;
- Employment by, or participation in the management of, a residential housing facility;
- Receiving, or having the right to receive, directly or indirectly, compensation in cash or in-kind under a compensation arrangement with an owner or operator of a residential rental facility.

### ***Organizational Conflicts***

In identifying conflicts of interests, the Town shall consider the organizational conflicts that may impact the effectiveness and credibility of the work of the Office. Organizational conflicts of interest include, but are not limited to, placement of the Office in an organization that:

- Is responsible to, or reports to, any agency that has an ownership or investment interest in a residential rental housing facility;
- Provides personnel for residential rental facilities or the operation of programs;
- Operates programs with responsibilities conflicting with TOJHOP responsibilities;
- Has governing board members with ownership, investment or employment interest in residential rental facilities; and
- Has direct involvement in the licensing or certification of residential rental facility.

Removing or remedying organizational conflicts. The Chief of Police and Town Manager shall identify and remove or remedy conflicts of interest in an agency carrying out the Ombudsman program. Where an internal conflict of interest exists with the Office or otherwise organizationally at the Town, Chief of Police and the Town Manager shall:

- Take reasonable steps to avoid internal conflicts of interests;
- Establish a process for review and identification of internal conflicts;
- Take steps to remove or remedy conflicts;

- Ensure that no individual, or member of the immediate family of an individual involved in the designating, appointing, otherwise selecting or terminating the Housing Ombudsman is subject to a conflict of interest; and
- Assure that the Housing Ombudsman has disclosed such conflicts and described steps taken to remove or remedy conflicts within the annual report submitted to the Town.

### ***Individual Ombudsmen Conflicts***

Conflicts for a Housing Ombudsman may include, but are not limited to, the following:

- Employment of an individual or a member of his/her immediate family by a residential rental operation or facility, within the Town of Jackson;
- Participation in the management of a residential rental facility by an individual or a member of his/her immediate family;
- Ownership or investment interest in an existing or proposed residential rental facility by an individual or a member of his/her immediate family;
- Involvement in the licensing or certification of a residential rental operation or facility by an individual or a member of his/her immediate family;
- Receipt of remuneration under a compensation arrangement with an owner or operator of a residential rental operation or facility by an individual or a member of his/her immediate family;
- Accepting any gifts, gratuities, or tips from residential rental operation or facility, resident, representative, or recipient;
- Accepting money or any other consideration from anyone other than the employer or employing provider agency or entity designated by the Town of Jackson for the performance of an act in the regular course of a Housing Ombudsman duties;
- Serving as guardian, conservator or in another fiduciary for a resident or owner of a residential rental facility in which the Ombudsman or representative of the Office provides services; and
- Serving residents or landlords of a facility in which an immediate family member resides;
- Other conflicts per the discretion of the Town of Jackson employment policies.

### ***Completing a Conflict of Interest Agreement***

To ensure compliance with the stated conflict of interest standards, all Housing Ombudsman for the Town shall complete the Conflict of Interest Agreement form and affirm that he or she is free from any conflicts. This form shall be used by the Town to explain any variances to the conflict of interest standards. Each Housing Ombudsman shall complete this form at the time of hire and annually.

### ***Remedying Organizational Conflicts***

When organizational conflicts have been identified, the following steps shall be taken in order to remedy the stated conflict:

- A written corrective action plan shall be submitted to the Office of the Ombudsman within thirty (30) days of the identification of the conflict;

- The corrective action plan shall identify the conflict and provide an explanation as to how the negative impact of the conflict shall be minimized to the greatest extent possible; and
- The corrective action plan must be agreed upon and signed by both the Town and the provider agency involved.

### ***Remedying Individual Ombudsman Conflicts***

- The Town or Chief of Police shall develop and implement policies and procedures to ensure that no Ombudsman or representatives of the Office are required or permitted to hold positions or perform duties that would constitute a conflict of interest;
- When considering the employment of an individual as the Ombudsman or as a representative of the Office, the Town or other employing shall:
  - Take reasonable steps to avoid employing an individual who has an unremedied conflict of interest or who has a member of the immediate family with an unremedied conflict of interest;
  - Take reasonable steps to avoid assigning an individual to perform duties which would constitute an unremedied conflict of interest;
  - Establish a process for periodic review and identification of conflicts of the Ombudsman and representatives of the Office; and
  - Take steps to remove or remedy conflicts.
- In no circumstances shall an Ombudsman or representative of the Office be employed, who:
  - Has direct involvement in the licensing or certification of a residential rental operation or facility;
  - Has an ownership or investment interest in a residential rental operation or facility;
  - Has been employed by or participated in the management of a residential rental operation or facility within the previous twelve months;
  - Receives, or has the right to receive, directly or indirectly, remuneration under a compensation arrangement with an owner or operator of a residential rental facility.
- In no circumstances shall the Town employ an Ombudsman or representative of the Office who:
  - Has direct involvement in the licensing or certification of a residential facility;
  - Has an ownership or investment interest in a residential rental facility;
  - Receives, or has the right to receive, directly or indirectly, remuneration under a compensation arrangement with an owner or operator or a residential rental facility;
  - Is employed by or participating in the management of a residential rental facility.

### ***When a conflict of interest is identified:***

- A written corrective action plan shall be submitted to the individual Ombudsman involved within thirty (30) days of the identification of the conflict;
- The correction plan shall identify the conflict and provide explanation as to how the negative impact of the conflict shall be minimized to the greatest extent possible; and

- The corrective action plan must be agreed upon and signed by both the Town, the provider agency, and the individual Ombudsman.

***Failure to Identify or Remedy a Conflict of Interest***

Failure of the provider agency, to identify or remedy a conflict of interest may be sufficient grounds for de-certification of the provider agency or de-designation of a provider agency.

***Housing Ombudsman Program Records***

Records of the TOJHOP shall be confidential and shall be disclosed only in limited circumstances specifically provided by the Town Attorney’s Office and/or a court of law.

***Confidential Information***

Confidential information regarding owners, landlords or tenants includes the following:

- The name of the owner, landlord or tenant;
- Information about the owner, landlord or tenant’s medical condition or medical history;
- Information about the owner, landlord or tenant’s social history;
- The tenant’s source of income and /or payment;
- Information about a tenant’s personal life;
- Conversations between the owner, landlord or tenant and a Housing Ombudsman.

Confidential information regarding complainants, includes the following:

- Names of the complainant;
- Address of property; and
- Relationships of the complainant.

Confidential information regarding residents or complainants does not include the following:

- Facility policies and procedures; or
- Statistical data about Ombudsman activities and cases.

***Maintenance of Town of Jackson Housing Ombudsman Program Records***

- All records of the TOJHOP shall be kept in a locked and secure location when not in use.
- TOJHOP mail, e-mail, or faxes that are addressed to any housing ombudsman by name, title, or program shall be date stamped and delivered unopened and unread to the respective housing ombudsman.
- All TOJHOP records are the property of the Office of the Housing Ombudsman.
- The Chief of Police and/or the Lead Ombudsman shall have access to all records at all times.

### ***Disclosure of Town of Jackson Housing Ombudsman Records***

No records created as a result of Housing Ombudsman activities shall be released, disclosed, duplicated, or removed without the written permission of the Town Attorney and/or by court order.

- The Chief of Police and the Town Attorney's Office shall be contacted whenever a request for TOJHOP records is received;
- The Chief of Police and/or the Town Attorney's Office shall require that all requests be made in writing; and
- When the records request is being made by a landlord or tenant that is physically or cognitively unable to put the request in writing, the resident(s) legal representative or an Ombudsman shall make a written request on his/her behalf.

The TOJHOP shall prohibit the disclosure of identifying information of any tenant, landlord or complainant with respect to whom the Ombudsman program maintains files, records, or information, unless

- The tenant or the tenant's representative, or the landlord or landlord's representative communicates informed consent through writing or through the use of auxiliary aids and services;
- The tenant or tenant's representative, or the landlord or landlord's representative communicates informed consent orally, visually, or through the use of auxiliary aids and services and such consent is documented concurrently by a housing ombudsman; or
- The disclosure is required by court order.

Upon receipt of a records request that would impose an undue burden on the TOJHOP and provides very little to no impact on the health, safety, and welfare of the landlord or tenant, the Town may deny the request.

Upon receipt of a records request by a person other than the tenant, landlord or a legal representative, the lead Housing Ombudsman or Chief of Police shall:

- Obtain written consent from the tenant or landlord for the release of information contained in the records;
- Obtain written consent from the tenant or landlord(s) legal representative, if applicable;
- Obtain written consent from the tenant or landlord for the release of complainant information contained in the record(s); and/or
- Document oral consent provided by the tenant or landlord, when written consent for the records release cannot be obtained because the tenant or landlord is physically or cognitively unable to provide consent in writing.

The Chief of Police and Town Attorney shall determine if the release of all or part of the requested record is appropriate, by assessing whether the release:

- Is in conflict with the wishes or interests of the tenant or landlord(s) for whom the release is being requested;
- Is in conflict with the wishes or interests of any other tenant(s) within the facility;



- Is likely to have a favorable outcome for the tenant or landlord;
- Would provide information which could be obtained elsewhere;
- Could be accomplished while protecting the identity of the resident(s), landlord or complainant(s) for whom there is no consent; and/or
- Would impose an undue burden to the TOJHOP and provides little to no impact on the health, safety, and welfare of the resident(s).

When all or part of a records request is granted, the Town Attorney’s office shall redact all identifying information for which the resident, landlord and/or complainant consent was not obtained.

Whenever a request for records or for Ombudsman testimony is made in the form of a subpoena, court order, or Open Records Act request, the Chief of Police shall be notified and:

- Consult legal counsel;
- If appropriate, a motion to quash the subpoena or a motion for a protective order may be filed; and
- In response to a court order, the court shall be notified, through proper channels, of the statutory provisions, policies, and regulations concerning disclosure of information and a request may be made for the court to seal the record.

### ***Grievance Procedure***

#### ***Grievances Regarding Town of Jackson Housing Ombudsmen***

The grievance procedure to accept and hear complaints regarding an Ombudsman’s actions shall be governed by the Jackson Police Department Grievance process and system.

### ***Legal Counsel and Resources***

This section includes information regarding legal counsel for the TOJHOP as well as legal resources for landlords, tenants or recipients of Housing Ombudsman services in the Town of Jackson, Wyoming.

#### ***Legal Counsel for the Town of Jackson Housing Ombudsman Program (“TOJHOP) and Housing Ombudsman shall be provided by the Town Attorney’s Office, for the following:***

- Legal matters related to the performance of the Housing Ombudsman job duties;
- Rules promulgation;
- Complex advocacy situations;
- Depositions and/or testimony for civil proceedings;
- Subpoenas;
- Public records requests; and
- Legal matters related to provisions of the TOJHOP as a whole.

### ***Legal Counsel for Recipients of Residential Rental Housing Ombudsman Services***

An ombudsman may be tasked with pursuing legal remedies on behalf of recipients. In this instance, the Ombudsmen shall make referrals to Teton County Access to Justice in order to obtain assistance for residents.

### ***Contact from an Attorney***

If a Housing Ombudsman is contacted by an attorney who represents facilities, tenants, landlords, complainants, family members and friends the Housing Ombudsman may provide public, non-confidential information, just as with any other member of the public. If the attorney is requesting confidential information, the Housing Ombudsman shall not acknowledge whether a person has had any contact with the TOJHOP and shall inform the attorney of the need to consult with the Town Attorney's Office. The Town Attorney's Office shall then make contact with the attorney and follow the process of consent and disclosure of records stated within this manual.

## ***Town of Jackson Residential Housing Program Services***

The TOJHOP shall provide services to protect the health, safety, welfare and rights of recipients of landlord's and tenants in the Town of Jackson. These services shall be performed in accordance with the following procedures and standards, as directed by the Office of the Ombudsman. The services include, but are not limited to, the following:

1. Intake, Investigation, and Complaint Processing
2. Maintenance of Records
3. Information and Assistance
4. Advocacy
5. Interagency Coordination
6. Consultation

### ***TOJHOP Intake, Investigation, and Complaint Processing***

Processing complaints made by or on behalf of citizens requesting TOJHOP services in Wyoming is a priority of the Housing Ombudsman. The Housing Ombudsman shall identify, investigate, and attempt to resolve complaints made by or on behalf of citizens. Although the issues and circumstances of the complaints will vary, the following are general guidelines that shall apply to all complaint handling. Whenever questions arise regarding appropriate practice in handling complaints, the Housing Ombudsman may be contacted for guidance. In the provision of handling all complaints, the Ombudsmen shall use auxiliary services, if appropriate, such as interpreters.

#### ***Response to the Complaint***

- When a Housing Ombudsman receives information regarding a complaint, the Housing Ombudsman shall determine:
  - The type of complaint;
  - What outcome the complainant or resident is seeking;

- What attempts have already been made to resolve the complaint;
- Whether the complaint is appropriate for Housing Ombudsman involvement. Examples of complaints which are not appropriate for Housing Ombudsman involvement can include complaints which:
  - Do not directly impact a recipient of residential housing or a landlord offering or providing residential housing in the Town of Jackson;
  - Are outside the scope of the mission or authority of the Housing Ombudsman; or
  - Would place the individual Housing Ombudsman in a position of having an actual or perceived conflict of interest with a resident(s) or recipient(s), at which time a different Housing Ombudsman may need to handle.
- The Housing Ombudsman shall determine the following with the complainant:
  - Alternative options available when working with the Office;
  - The option of the complainant to personally take action, with TOJHOP assistance, if requested; and
  - Communicate the Housing Ombudsman role is to act in accordance with the resident, landlord or complainant's wishes and to maintain the TOJHOP policy of confidentiality.
- Timeliness of responses to complaints:
  - The Housing Ombudsman investigations shall be initiated within three (3) working days of a complainant contacting the Housing Ombudsman. The TOJHOP is not an emergency response system. Emergency situations shall be referred to law enforcement or by calling '911' for an immediate response.
  - The Housing Ombudsman may indicate to the complainant when he/she may expect investigative efforts to begin.
- Housing Ombudsman advocacy is focused on:
  - The resident or landlord of residential housing within the Town of Jackson as TOJHOP client;
  - The Housing Ombudsman shall discuss the complaint with the client to:
    - Determine the client's perception of the complaint;
    - Determine the client's wishes with respect to resolution of the complaint;
    - Advise the client of his/her rights; and
    - Work with the client in developing a plan of action.
      - When client consent is refused or withdrawn at any point during the complaint process and the client expresses that he/she does not want the Housing Ombudsman to take further action on a complaint involving the client, the Housing Ombudsman shall record the refusal or withdrawal of consent in the appropriate sections of the electronic case file.
  - Client unable to provide consent:
    - The Housing Ombudsman shall advocate for a resident's wishes to the extent that the client can express them, even if the client has limited decision-making capacity.

- When a client is unable to provide consent to a Housing Ombudsman to work on a complaint directly involving the resident, the Housing Ombudsman shall:
      - Seek consent from the client’s legal representative;
      - If there is no legal representative, the Housing Ombudsman shall do the following:
        - First consult with the Chief of Police;
        - Seek information about a client’s previous expressed wishes;
        - Assume, in the absence of client direction, the client wishes his/her health, safety, and welfare to be protected; and
        - Take action to protect those known or assumed wishes.
  - When a Housing Ombudsman personally witnesses suspected gross neglect, or exploitation of a client:
    - The Housing Ombudsman shall seek informed consent from the client, in order to disclose identifying information to an appropriate agency or law enforcement.
    - If the client is unable to communicate informed consent and there is no legal representative available, the Housing Ombudsman shall open a case with the Housing Ombudsman as the complainant, follow the complaint resolution procedures, and shall refer the matter and disclose identifying information of the client to the management/ landlord of the housing facility and/or law enforcement.
  - In all instances when a Housing Ombudsman must disclose resident identifying information, without the informed consent of that resident or the legal representative, the Housing Ombudsman shall consult with the Chief of Police for approval.

Investigation Procedures

- The Housing Ombudsman is not required to verify a complaint in order to seek resolution on behalf of a client. Client perception is a sufficient basis upon which a Housing Ombudsman can seek resolution.
- The Housing Ombudsman investigates a complaint in order to verify the accuracy and validity of the complaint:
  - A complaint is ‘verified’ when the Housing Ombudsman determines, after completing an investigation, that the circumstances described in the complaint are substantiated or generally accurate.
  - Because a Housing Ombudsman works on behalf of the client, the Housing Ombudsman gives the benefit of any doubt to the client’s perspective.
- The Housing Ombudsman shall seek the following information during the investigation of a complaint:
  - What has occurred or is occurring;
  - When it occurred and whether the occurrence is on-going;
  - Where it occurred;
  - What behaviors were observed;
  - Who was involved;

- Who else was present and may have witnessed the occurrence;
- What else was happening at the property in question;
- What was the effect of the occurrence on the client(s); and
- What, if anything, has the person in charge or owning the property in question or other interested parties done in response to the complaint or the occurrence?
- To verify a complaint, the Housing Ombudsman shall take one or more of the following steps, as appropriate, given the nature of the complaint:
  - Research relevant laws, rules, regulations, and policies;
  - Personally observe the evidence;
  - Attempt to interview the resident, landlord and/or complainant;
  - Attempt to interview staff, administration, other residents and/or witnesses;
  - Identify relevant agencies and interview and/or obtain information from their staff; and/or
  - Examine relevant records
- Visit the property in question, provided the Housing Ombudsman identifies him/herself as such and wears a name tag.

#### Plan of Action

- Upon verifying a complaint, the Housing Ombudsman shall determine a plan of action to resolve the complaint.
- The plan of action shall be agreed upon by the client and all involved, where possible, in order to implement the plan of action.
- The Housing Ombudsman shall consider the following factors in developing the plan of action, as appropriate to the nature of the complaint:
  - The scope of the complaint;
  - The history of the property at issue with respect to resolution of other complaints;
  - Available remedies and resources for referral;
  - Who would be best able to resolve the complaint; and/or
  - The likelihood of retaliation against the resident or complainant.
- One or more of the following may be an appropriate plan of action, in resolving complaints:
  - Explanation – i.e. the findings of the investigation do not indicate a need for a change or require Housing Ombudsman intervention. The resident or complainant received an explanation which satisfied the initial problem. The Housing Ombudsman supports the wishes of the client and communicates the client’s desires to the appropriate parties;
  - Negotiation – i.e. the Housing Ombudsman advocates on behalf of or with the resident in discussing the complaint with the appropriate staff or other relevant party to develop an agreement that resolves the complaint;
  - Mediation – i.e. as legally appropriate, the Housing Ombudsman acts as an impartial referee between parties of equal status, to assist the parties in developing an agreement that resolves the complaint; or
  - Referring the resident or complainant to appropriate agencies.

- The Housing Ombudsman shall attempt to resolve the dispute directly with the owner or manager of the property at issue or the client unless the Housing Ombudsman and the client determine that another strategy would be more advantageous to the client.

#### Complaint Referrals

- A Housing Ombudsman shall make a referral to another agency when:
  - The client gives consent; and
  - One or more of the following applies:
    - Another agency has a statutory responsibility to support or assist the resident;
    - The action to be taken is outside the Housing Ombudsman's authority;
    - The Housing Ombudsman needs additional assistance in order to achieve resolution of the complaint;
    - The client requests the referral be made;
    - It is determined that additional expertise may benefit the client.
- A Housing Ombudsman may encourage clients or complainants to directly contact the appropriate regulatory agency to file a complaint and offer information and assistance in doing so. When a Housing Ombudsman refers a complaint to another agency, the Housing Ombudsman shall:
  - Submit the complaint to the TOJHOP in writing; or
  - Contact the agency, to whom the referral is being made, by telephone and subsequently document the referral.
- When a client or complainant is requesting or requiring legal advice or representation, the Housing Ombudsman shall refer the client or complainant to the Teton County Access to Justice Program, the Town Attorney's or the Wyoming State Bar.

#### Closing a Case or Complaint

The complaint or case may be closed when any of the following occur:

- The complaint has been resolved to the client's satisfaction;
- The Housing Ombudsman has determined, after investigation, that the complaint:
  - Cannot be verified; or
  - Was not made in good faith.
- Further activity by the Housing Ombudsman is unlikely to produce satisfaction for the client;
- The complaint is not appropriate for the TOJHOP;
- The Housing Ombudsman anticipates no further response regarding the complaint from the agency to which the referral was made; or
- The resident requests that Housing Ombudsman activity end on the complaint.

#### Abuse, Neglect and Exploitation Cases

- The TOJHOP does not take an investigative role for referrals involving abuse, neglect, exploitation, and/or intimidation. Any person or agency, who knows or has reasonable

cause to believe abuse is occurring are required to report the information immediately to law enforcement. The role of the TOJHOP, once a Housing Ombudsman identifies potential abuse and has received consent of the client for a referral to an appropriate agency, is to advocate on behalf of the client to ensure that all necessary parties are actively involved and that the client receives proper treatment, and is protected from further harm or retaliation.

- When consent is initially refused, it is the role of the Housing Ombudsman to educate the client regarding the benefits and protections of reporting the situation to law enforcement or the appropriate agency, while providing assurances of protection against retaliation.

#### Documentation of Cases

- The Housing Ombudsman shall document each complaint using the electronic data retention management system of the Jackson Police Department (“JPD RMS”).
- All TOJHOP cases and activities shall be entered into the electronic data retention management system of the Jackson Police Department, to include the following information:
  - Complainant intake information:
    - Complainant name;
    - Complainant contact information;
    - Detailed description of the problem or incident;
    - Complaint category;
    - Affected tenant or landlord’s name;
    - Facility name; and
    - Name of the Housing Ombudsman taking the complaint.
  - A plan of action for resolution of the complaint;
  - A detailed description of steps taken to investigate, verify, and resolve the complaint and any referrals made; and
  - An explanation of the resolution or other reason for closing the case.
- The Housing Ombudsman shall complete and maintain documentation in the electronic data retention system of the Jackson Police Department in a timely manner. The documentation shall:
  - Be input upon timely completion of the investigation; and
  - Be readily understood by another Housing Ombudsman or the Chief of Police.
- The Lead Housing Ombudsman shall review all of the closed cases on a monthly basis for quality assurance. Any issues shall be discussed with the Chief of Police and documented.

#### Access to Review the Medical, Social, and Other Records Relating to a Complainant

- The Housing Ombudsman shall have access to review landlord’s medical, social, and other records relating to a tenant if:
  - The Housing Ombudsman has the consent of the tenant or the legal guardian/representative of the tenant;Consent may be given by the tenant in writing, verbally, visually or through the use of auxiliary aids and services. The TOJHOP shall document consent given and in what form.

Access to Administrative Records, policies, and documents

- The TOJHOP shall have access to the administrative records, policies, and documents, to which the tenants have, or the general public has, access for a landlord.

***Maintenance of Records***

Town of Jackson Police Department Electronic Retention Management System (“JPD RMS”)

All cases and activities shall be input into the JPD RMS. This data is used to analyze current program metrics and data, and monitor the activity of all Housing Ombudsman.

- Access to the JPD Data System shall be password protected, no person with authorized access to JPD Data System shall share their username and/or password or allow access to any other person.
- The Chief of Police shall manage users within the JPD Data System.
- Upon initial certification as a Housing Ombudsman and annually thereafter, each Housing Ombudsman shall complete the ‘Rules of Behavior’ document outlining confidentiality and usage responsibilities.
- There shall be a backup administrator for the JPD RMS.

Retention of Program Files and Records

A Provider Agency with the TOJHOP shall retain all records relating to the contract with the Town for at least six (6) years. Electronic copies stored within JPD RMS are acceptable for retention. Signed consent forms and other pertinent documentation not held within JPD Data System shall be retained in hard copy form for the stated length of time.

Maintenance of Paper Records Received

Paper records received by the TOJHOP may be faxes, incident reports, mail, etc. The Jackson Police Department protocol for paper records that shall be scanned into the JPD Data System. If a record is not scanned into the TOJ RMS, it must be maintained in its paper form for 6 years.

***Interagency Coordination***

The TOJHOP shall coordinate with other agencies or programs who provide resources or services that benefit recipients on residential housing in Wyoming.

***Consultations***

The TOJHOP shall serve as a resource and provide consultations and offer technical assistance, advice, referrals, and ideas for the purpose of assisting landlords, tenants and residents to solve possible issues residential housing and landlord-tenant relations.



## **ORDINANCE XXX**

AN ORDINANCE ADDING CHAPTER 16.50 TO THE MUNICIPAL CODE OF THE TOWN JACKSON ESTABLISHING AN OFFICE OF THE HOUSING OMBUDSMAN; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JACKSON, WYOMING, IN REGULAR SESSION DULY ASSEMBLED THAT:

### **SECTION I.**

Chapter 16.50 of the Municipal Code of the Town of Jackson is hereby created to read as follows:

### **Chapter 16.50. Office of the Housing Ombudsman**

#### **16.50.001. Legislative Purpose**

It is the intent of the Town Council of the Town of Jackson, Wyoming to establish, in addition to other remedies or rights of appeal of any person under local, state or federal law, an independent, impartial local office readily available to the public and empowered to investigate housing disputes; to direct tenants, landlords and persons to the right avenue of recourse and/or the proper venue for recourse for conflicts; to assist in resolving problems and grievances between a landlord and a tenant; to document and identify issues and problems with residential rental housing and landlord-tenant relationships; and to recommend needed changes to laws to the Town of Jackson Town Council.

#### **16.50.002. Creation of Office**

The Office of Housing Ombudsman is hereby established in the Town of Jackson by virtue of W.S. 15-1-103(xli) for the health, safety and welfare of citizens seeking or who have obtained residential housing, or who offer or provide residential housing in the Town of Jackson, Wyoming.

#### **16.50.003. Appointment**

The Town of Jackson Victim Services Division of the Jackson Police Department shall serve as Housing Ombudsmen. This arrangement helps to guarantee the independence of the Housing Ombudsmen, who are not only providing a direct service to citizens but are performing a role in legislative oversight of the Town of Jackson Housing Ombudsman program by reporting to the Chief of Police and the Town Council.

#### **16.50.004. Qualifications**

- A. The Housing Ombudsman shall be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems of law, administration and public policy.
- B. No person while serving as Ombudsman:
  1. Shall engage in any other occupation, business, or profession likely to detract from the full-time performance of his or her duties as Ombudsman; or,
  2. Shall engage in any other occupation, business or profession likely to result in a conflict of interest or an appearance of impropriety or partiality.

C. The Housing Ombudsman shall follow the policies, rules and procedures adopted by the Town Council for the Office of Housing Ombudsman.

SECTION II.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION III.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

SECTION IV.

This Ordinance shall become effective after its passage, approval and publication.

PASSED 1ST READING THE \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

PASSED 2ND READING THE \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

PASSED AND APPROVED THE \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

TOWN OF JACKSON

BY: \_\_\_\_\_  
Pete Muldoon, Mayor

ATTEST:

BY: \_\_\_\_\_  
Town Clerk

ATTESTATION OF TOWN CLERK

STATE OF WYOMING     )  
  ) ss.  
COUNTY OF TETON     )

I hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published in the Jackson Hole News and Guide, a newspaper of general circulation published in the Town of Jackson, Wyoming, on the \_\_\_\_ day of \_\_\_\_\_, 2018.

I further certify that the foregoing Ordinance was duly recorded on page \_\_\_\_\_ of Book \_\_\_\_\_ of Ordinances of the Town of Jackson, Wyoming.

\_\_\_\_\_  
Town Clerk