

TO: Kellie Glenn
From: Maria Sosa
Date: August 7, 2017

RE: Fair Housing

FAIR HOUSING REPORT

During 2015 and 2016 many steps were taken to provide guidance and administer policies that are helping to ensure that every resident of the City of Lorain has an equal and fair access to housing opportunities. Additionally, as a recipient of federal funds, the City took various affirmative steps in order to overcome housing discrimination, address impediments to fair housing, and provide its residents with more knowledge regarding fair housing laws.

Procedure and Complaint Form

In particular, following the guidance of the City's Fair Housing Ordinance, a procedure for complaints was established. Now, the Fair Housing Administrator is able to screen potential complaints from residents, conduct investigations, initiate conciliation, and assist if a hearing is necessary.

As one of the first steps in implementing an effective procedure for complaints, a Fair Housing Complaint Form was created. The Complaint form was created with the objective of obtaining all necessary and pertinent information that would help in an investigation. This form is available online, on the City's Website, hard copies are available throughout City Hall, and is periodically distributed to local organizations and libraries. Typically, the Fair Housing Administrator first interviews potential claimants in order to determine if the situation warrants further action and the full completion of a Fair Housing Complaint form.

It was important to create a Bilingual form due to the City's current population. Although the City's population as a whole has declined since the 1970's, the Hispanic population has steadily increased since that time. Additionally, over 15% of the population speaks Spanish primarily at home in the City of Lorain. This is crucial as it relates to Fair Housing since it has been found by many courts that a person's language is so closely intertwined with his or her national origin, that language-based discrimination is effectively a proxy for national origin discrimination. Moreover, people with Limited English Proficiency may have more of a difficulty accessing Fair Housing choices. For this reason under Title VI of the Civil Rights Act of 1964, jurisdictions, such as the City of Lorain, are required to "take affirmative steps to provide 'meaningful opportunity' for limited English proficient individuals to participate in its programs and activities..."¹ The availability of a Bilingual Fair Housing Complaint form and the accessibility of a fully Bilingual Fair Housing Administrator, helps to satisfy this requirement regarding Limited English Proficiency individuals, in terms of Fair Housing matters for the City.

Complaints

Numerous calls are received on a weekly basis from residents who are seeking answers and solutions to their landlord/tenant concerns, fair housing issues, and general housing issues. Landlord/tenant issue calls are usually refer to entities that deal with those issues, such as Legal Aid among others. In occasions, guidance and moderate mediation has been offered regarding these issues. If the call is in reference to a fair housing issue, further investigation is immediately initiated.

The City of Lorain received a Fair Housing Complaint during 2015. This was the first internally processed complaint since the enactment of the Fair Housing Ordinance in 1977. The basis of the complaint was alleged familial status and sex (gender) discrimination. Upon conciliation all issues were resolved favorably and the file closed.

¹ DOH Policy Guidance on the Enforcement of Title VI of the Civil Rights Act of 1964 – National Origin Discrimination Against Persons with Limited English Proficiency, 65 Fed. Reg. 50124 (Aug. 16, 2000).

Community Outreach and Involvement

Fair Housing Poster Contest

In order to involve kids and the community in general, a Fair Housing Poster Contest was conducted during 2016. The Poster Contest was opened to all students' residents of the City of Lorain grades 4th to 8th grade.

The Fair Housing Poster Contest gave the opportunity to students to develop their own work of art using the theme "Fair Housing Choice for Everyone." The Mayor and members of Council recognized the winner during the first City Council Meeting in April. Additionally, the winner's poster was displayed as part of a Fair Housing Billboard in various locations throughout the City.

This Contest was done in collaboration with the Lorain City School. For that reason, all Lorain City School students 4th to 8th grade received a copy of the Contest's flyer to take home. This helped with not only obtaining maximum participation but also it was a good tool to use in order to spread Fair Housing awareness to parents and family members as well.

Due to these Billboards the number of calls regarding housing questions and concerns in general increased. The use of Fair Housing Billboards through the City, using the artwork from the Fair Housing Poster Winner, overall increased awareness of local Fair Housing resources available within the City of Lorain.

Fair Housing Conference

During April of 2015, a Fair Housing Conference took place in the City of Lorain. This Conference was done in collaboration with the City of Elyria Fair Housing Board, Lorain County Fair Housing Board, and the City of Oberlin. The conference was held at the Amy Levin Conference Center and it was free to the public.

The themes that were discussed this year included: Understanding the Fair Housing Act, Protections as a Tenant or Landlord, The importance of Credit Scores, and information on how to file a Discrimination Complaint or Charge.

Collaboration with the Lorain Metropolitan Housing Authority (LMHA)

Several collaborations have taken place with LMHA. One of them included Fair Housing training, conducted for LMHA employees. This training was provided to LMHA employees as part of their annual requirements. Calls are also periodically referred by LMHA regarding Fair Housing concerns. Additionally, the Fair Housing Administrator was one of the speakers at a Pre-purchase Homeownership class conducted by LMHA.

Moreover, upon the review of LMHA's Annual Plan it was discovered that their definition of familiar status did not comply with current Fair Housing Standards. As part of their Annual Plan revision for 2016, the definition of familiar status was amended and updated to more closely mirror the definition used by the Federal Fair Housing Act and the City of Lorain's Fair Housing Codified Ordinance Chapter 136.

The Nord Center

As part of another collaboration with agencies throughout the community, training was conducted for the staff at the Nord Center that dealt directly with clients. This was important since Disability is the number one most common basis for housing discrimination, according to HUD's national statistics. Since the training several referrals and calls have been received due to this training.

Faith Based Organizations

As part of community outreach opportunities, the Fair Housing Administrator participated in a Christmas Meal and Pantry at Mission Cristiana El Faro Disciples of Christ in Lorain. During that event items donated from the Department of Building, Housing, and Planning were also distributed.

Homeless Task Force

As part of the City's commitment to help with homeless issues, the Fair Housing Administrator attends the monthly meetings of the Lorain County Task Force for the Homeless as part of the general membership. Through this participation, fair housing and information in general is shared with other participating agencies. Additionally, the City's Fair Housing Administrator has been able to participate in events such as the Lorain County Homeless Stand Down for the last two consecutive years that is organized by the Homeless Task Force.

Webinars and Trainings

The following are webinars and webcasts attended:

- "Expanding Opportunity: HUD's Affirmative Fair Housing Regulation" – Webinar, August 18, 2015 by HUD and the National Fair Housing Alliance.
- "Steering, Schools and Segregation: Real Estate Sales Discrimination in the U.S. " – Webinar, September 15, 2015 by the National Fair Housing Alliance.
- "The Administration's New Fair Housing rule & Healthy Housing: Connections & Opportunities" – Webinar, September 2015 by the National Fair Housing Alliance.
- "HUD at 50: History in the Making" – Webcast, September 17, 2015 by HUD.
- "Fair Lending and Affirmatively Furthering Fair Housing: Ensuring Access to Credit in the Fair Housing Planning Process" – Webinar, September 21, 2015 by the National Fair Housing Alliance.
- "Fair Housing Accessibility Design and Construction Training" – Training at Ohio State University, July 11, 2017.

Advertising Screening

Local newspapers and Internet ads are periodically reviewed and screened. This is with the purpose of identifying words or terms that might violate Fair Housing laws. If a violation is found, the advertiser will be contacted and ordered to rectify the working.

Flyers and Information Distributed

Flyers and information in general has been distributed throughout the community with information regarding Fair Housing laws and available resources.

Testers Program

A Fair Housing Testing Program was developed and will be implemented in the City of Lorain. Testing is a useful tool that helps underscore housing discrimination in violation of Fair Housing laws. Essentially testing is a simulated housing transaction designed to obtain evidence of any differential treatment based on an individual's protected class status, under Fair Housing laws. During 2017 testers will be selected and trained. At the end of a few testing cycles, the City will have tangible data that will help identify and address potential Fair Housing discrimination issues.

Repeal of "Nuisances" Ordinance

As part of the Analysis of Impediments, City Ordinances are reviewed. Upon reviewing Codified Ordinance 162-13, which established Chapter 559 "Nuisances," it was determined that the Ordinance served as an impediment Fair Housing. There types of ordinances expose victims of domestic violence by "double victimization." Additionally, nuisance ordinances tend to have a greater impact on protected groups that tend to experience higher rates of domestic violence. On March 7th, 2016 the "Nuisances" Ordinance was repealed.

Accessibility Program

An accessibility program was initiated during 2015. The Home Accessibility Program provides a one-time grant in the amount of \$1,500 for accommodations such as ramps, grab bars, door widening, adjusting levels doors/faucets, assisted technology devices and toilets. This Accessibility is administered in-house.

Down Payment Assistance

The City of Lorain's Down Payment Assistance Loan Program will initiate during 2017. The Neighborhood Housing Service of Greater Cleveland Inc. with a maximum qualifying amount of \$17,000 will administer the program. As part of the Agreement homebuyer training and financial literacy training will also be provided.

Lead Program

In order to help address adequate housing, a Lead Program will also start during 2017. The program will provide services to identify and control lead-based paint hazards in eligible privately owned housing for owner-occupants.

Legal Services

The Fair Housing Administrator will continue to refer individuals in need to legal assistance that qualify for legal aid services. As part of an a recent Agreement within the City of Lorain and Legal Aid of Cleveland, low income residents will be able to obtain greater access to legal services. These legal services will be mainly in terms of landlord-tenant issues.

Analysis of Impediments

An Analysis of Impediments for 2015-2019 is being created. A draft of the City of Lorain's Analysis has been completed by August, 2017 and a final draft will be submitted September, 2017.

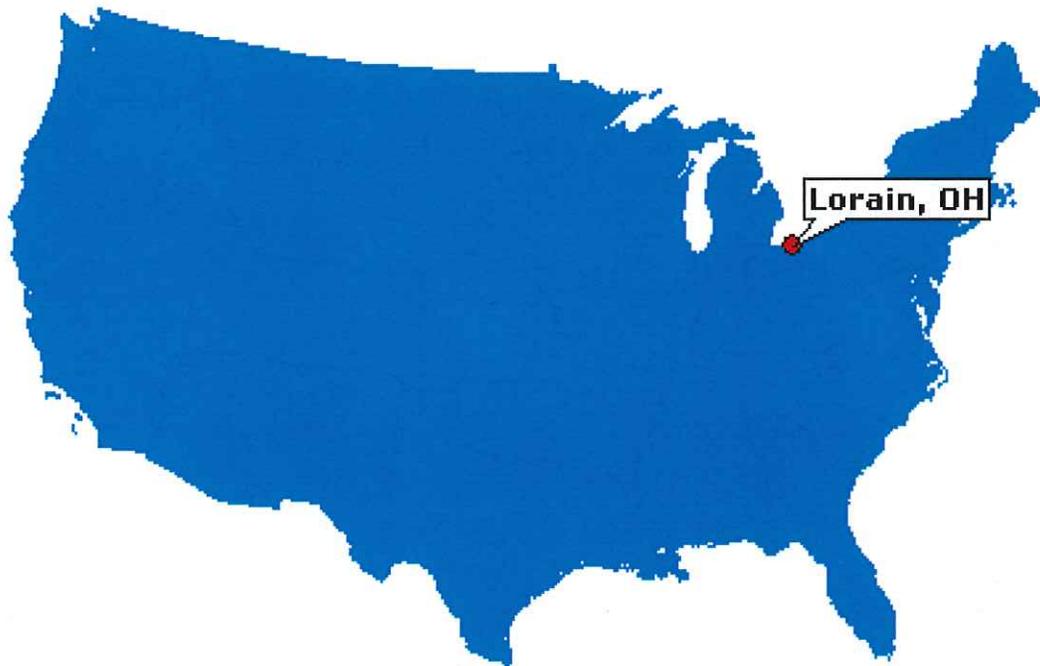
CITY OF LORAIN ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE



2015-2019

The City of Lorain is committed to affirmatively furthering fair housing. As a recipient of federal funds, the City is required to conduct an analysis of impediments to fair housing choice and then take steps to overcome the identified impediments. This Analysis of Impediments to Fair Housing Choice satisfies this requirement and provides the City of Lorain guidance to overcome barriers to full and equal access to housing choice.

*"Fair Housing
Choice for
Everyone"*



COVER SHEET

1. Submission date: August, 2017
2. Submitter name: Maria Sosa
3. Jurisdiction: City of Lorain
4. Submitter contact information:
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5. Period cover by this analysis: 20015 - 2019

I. INTRODUCTION

The City of Lorain is dedicated to ensuring that individuals' choice, and not discrimination, determines where people live within the City of Lorain. Studies indicate that housing location plays a significant role in enabling people access to educational, economic, employment, and social opportunities.¹ Moreover, obtaining fair, non-discriminatory, access to housing and exercising housing choice is part of the civil rights granted to all persons in the United States by different federal, state, and local laws. These rights are further emphasized through executive orders, program rules, and various regulations. This **Analysis of Impediments to Fair Housing Choice (AI)** provides the City of Lorain with a roadmap that enables the City to identify and work towards overcoming any current barriers to fair housing choice.

A. PURPOSE OF ANALYSIS

As a cornerstone principle the United States is committed to offer full and equal access to housing choice for all. Federally, Title VIII of the Civil Rights Act of 1968, more commonly known as the Fair Housing Act², as amended, ensures protection of housing opportunity by prohibiting discrimination in the housing sector on the basis of *race, color, religion, sex, national origin, familial status, and disability*. The federal Fair Housing Act of 1968 was amended in 1988 to include familial status and disability as additional protected classes. The Amendments of 1988 also provides for stiffer penalties and established an administrative enforcement mechanism for the federal Fair Housing Act.

The United States Department of Housing and Urban Development (**HUD**) is responsible for the administration and enforcement of the Fair Housing Act and other civil rights laws within the housing sector.

¹ Goering, J., Kamely, A., and Richardson, T. "Recent research on racial segregation and poverty concentration in public housing in the United States." *Urban Affairs Review* 32.5 (1997): 723-745.; Ellen, I.G., and Turner, M.A. "Does neighborhood matter? Assessing recent evidence." *Housing policy debate* 8.4 (1997): 833-866.; Mayer, C.J. "Does location matter?" *New England Economic Review* Special issue (1996): 26.; Chetty, Raj,C., Hendren, N., Katz, Lawrence. "The Effect of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment." *Harvard University and NBER* May 2015:NBER Working Paper No. 21156

² 42 U.S.C. 3601 note.

The federal Fair Housing Act, Section 808(e)(5), requires the Secretary of HUD to administer the Department's housing and urban development programs in a manner Affirmatively Furthering Fair Housing (AFFH)³. This duty of AFFH is also required of state and local jurisdictions recipients of federal funds.

Courts

The courts have said that when looking at the duty to AFFH:

*"... every court that has considered the question has held or stated that Title VIII imposes upon HUD an obligation to do more than simply refrain from discriminating ... This broader goal [of truly open housing choice] ... reflects the desire to have HUD use its grant programs to assist in ending discrimination and segregation, to the point where the supply of genuinely open housing increases."*⁴

In the 1972 Supreme Court case, *Trafficante v. Metropolitan Life Insurance Company*⁵, the Court quoted the Act's co-sponsor, Senator Walter F. Mondale, in noting that the Fair Housing Act was enacted by Congress to replace the racially or ethnically concentrated areas that were once called "ghettos" with "truly integrated and balanced living patterns."⁶ Most recently in 2015, in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*⁷, the Supreme Court once again acknowledged the importance of the federal Fair Housing Act in moving towards a more integrated society.

Congress

Congress has stated that the principal objective of AFFH is to improve housing opportunity for all residents of the United States, particularly members of disadvantage minorities, on a nondiscriminatory basis.⁸ Additionally, Congress has repeatedly reinforced the duty to AFFH by requiring that HUD program participants certify that they will Affirmatively Further Fair Housing as a condition of receiving Federal Funds.⁹

³ U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity. *Fair Housing Planning Guide: Volume 1 (Chapter 1: Fair Housing Planning: Historical Overview, Page 13)*. March 1996.

⁴ *NAACP v. Sec'y of Housing and Urban Development*, 817 F.2d 149, 155 (1st Cir. 1987).

⁵ 4096 U.S. 205, 211 (1972)

⁶ U.S. Department of Housing and Urban Development. AFFH Rule Guidebook: Version 1 (p. 3-4). Dec. 31, 2015.

⁷ 576 U.S. __ (2015)

⁸ Congress reiterated this affirmative obligation as part of the 1990 National Affordable Housing Act.

⁹ 42 U.S.C. §§ 5304(b)(2), 5306(d)(7)(B), 12705(b)(15), 1437C-1(d)(16)

HUD

HUD, as part of its new guidance, indicates that Affirmatively Furthering Fair Housing Choice is to comply with *“the 1968 Fair Housing Act’s obligation of state and local governments to improve and achieve more meaningful outcomes from fair housing policies, so that every American has the right to fair housing [choice], regardless of their race, color, national origin, religion, sex, disability or familial status.”*¹⁰

Moreover, under the **new 2015 AFFH Rule** HUD defines the duty as:

*“Affirmatively furthering fair housing means taking proactive steps beyond simply combating discrimination to foster more inclusive communities and access to community assets for all persons protected by the Fair Housing Act. More specifically, it means taking steps proactively to address significant disparities in access to community assets, to overcome segregated living patterns and support and promote integrated communities, to end racially and ethnically concentrated areas of poverty, and to foster and maintain compliance with civil rights and fair housing laws. For participants subject to this subpart, these ends will be accomplished primarily by making investments with federal and other resources, instituting strategies, or taking other actions that address or mitigate fair housing issues identified in an assessment of fair housing (AFH) and promoting fair housing choice for all consistent with the policies of the Fair Housing Act.”*¹¹

Fair housing choice encompasses:¹²

- (1) **Actual choice**, which means the existence of realistic housing options;
- (2) **Protected choice**, which means housing that can be accessed without discrimination; and
- (3) **Enabled choice**, which means realistic access to sufficient information regarding options so that any choice is informed. For persons with disabilities, fair housing choice and access to opportunity include accessible housing and housing in the most integrated setting appropriate to an individual’s needs as required under law, including disability-related services that an individual needs to live in such housing.

¹⁰ U.S. Department of Housing and Urban Development. “HUD Publishes New Proposed Rule on Affirmatively Furthering Fair Housing Choice.” Press Release No. 136-110. July 19, 2013.

¹¹ 78 C.F.R. No. 139 §5.152

¹² 24 C.F.R. § 5.152

Additionally, although the actual duty to AFFH has never been defined statutorily, HUD's "Fair Housing Planning Guide" shares the following requirements:¹³

- *Jurisdictions must conduct an analysis to identify impediments to fair housing choice within the jurisdiction;*
- *Appropriate actions must be taken to overcome the effects of any impediments identified in the analysis; and*
- *Jurisdictions must maintain records reflecting the analysis and actions taken in this regard.*

Duty to Affirmatively Further Fair Housing

Entitlement Communities, jurisdictions receiving financial assistance from HUD, such as the City of Lorain, are required by Section 104(b)(2) of the Housing and Community Development Act¹⁴ of 1974, as amended, and Section 105(b)(3) of the National Affordable Housing Act¹⁵ (NAHA) of 1990 to certify that they will Affirmatively Further Fair Housing. Specific programs that give rise to this requirement for the City are the Community Development Block Grants¹⁶ (CDBG), the HOME Investment Partnership Program (HOME), and the Neighborhood Stabilization Program (NSP).¹⁷

Public and Private Obligation

Although the AFFH obligation arises in connection with the receipt of federal funding, the obligation is not restricted to the design and operation of programs funded with funds provided by HUD only. The obligation to AFFH extends to all housing and housing-related activities in the grantee's jurisdictional area, whether publicly or privately funded.¹⁸ For this purpose, the duty to guard against "private discrimination" refers to discrimination in the private housing market which may include, but is not limited to, discrimination by landlords, property managers, home sellers, real estate agents, lenders, homeowners' associations, and condominium boards.

¹³ U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity. *Fair Housing Planning Guide: Volume 1 (Chapter 1: Fair Housing Planning: Historical Overview, Page 14)*. March 1996.

¹⁴ 12 U.S.C. § 1706e.

¹⁵ 42 U.S.C. §12703.

¹⁶ The Community Development Block Grant program was authorized under the Housing and Community Development Act of 1974.

¹⁷ For a complete list see: U.S. Department of Housing and Urban Development, Community Development Block Grant Entitlement Communities Grants, http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/.communitydevelopment/programs/entitlement.

¹⁸ U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity. *Fair Housing Planning Guide: Volume 1 (Chapter 1: Fair Housing Planning: Historical Overview, Page 1-3)*. March 1996. HUD Fair Housing Planning Guide Vol. 1 at 1-3.

What is An Analysis of Impediments?

An Analysis of Impediments to Fair Housing Choice is a fair housing study, required of Entitlement Communities such as the City of Lorain. HUD's goal is to expand mobility and widen a person's freedom of housing choice. With this in mind, an AI compiles a variety of real estate data, housing conditions, and other information, which can help in determining if patterns of discrimination or lack of choice impact particular communities. This AI conducted for the City of Lorain looks at neighborhood opportunities from a social, economic and housing perspective.

What are Impediments to Fair Housing Choice?

The federal Fair Housing Act, its amendments, and ensuing case law, as well as various executive orders, program rules and other laws and regulations have defined actions which are considered to be impediments to an individual or households from obtaining their fair housing rights and fair housing choice.

According to HUD,

*Impediments to fair housing choice are defined as any action, omissions, or decisions that restrict, or have the effect of restricting, the availability of housing choices, based on race, color, religion, sex, disability, familial status, or national origin.*¹⁹

Impediments to fair housing choice include actions that:²⁰

- 1. *Constitute violations, or potential violations, of the Fair Housing Act.***
- 2. *Are counterproductive to fair housing choice, such as:***
 - a. Community resistance when minorities, persons with disabilities and/or low-income persons first move into white and/or moderate to high-income areas.***
 - b. Community resistance to the siting of housing facilities for persons with disabilities because of the persons who will occupy the housing.***
- 3. *Have the effect of restricting housing opportunity on the basis of race, color, religion, sex, disability, familial status, or national origin.***

¹⁹ U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity. *Fair Housing Planning Guide: Volume 1* (Chapter 2: Preparing for Fair Housing Planning, p.26) March 1996.

²⁰ U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity. *Fair Housing Planning Guide: Volume 1* (Chapter 2: Preparing for Fair Housing Planning, p.2-17) March 1996.

An Analysis of Impediments to Fair Housing Choice reviews those impediments to fair housing in the public and private sector, and should include the following requirements:²¹

- *A comprehensive review of a States or Entitlement Jurisdiction's laws, regulations, and administrative policies, procedures, and practices.*
- *An assessment of how those laws, etc. affect the location, availability, and accessibility of housing.*
- *An assessment of conditions, both public and private, affecting fair housing choice for all protected classes.*
- *An assessment of the availability of affordable, accessible housing in a range of unit sizes.*

As required, this report satisfies the City of Lorain's duty to complete an AI under HUD's current requirements and satisfies the future Analysis of Fair Housing (AFH) requirements, under the new 2015 AFFH Rule.²²

Also as required, this AI provides action steps and recommendations to help overcome impediments found within the City of Lorain, consistent with HUD's recommendations.²³ Additionally, the action steps and recommendations will be reviewed and prioritized yearly, during the five year expand (2015 to 2019) that this AI covers.

This AI is being utilized as guidance for the City's expenditure of federal funds, alongside the City of Lorain's most recent Five-Year Consolidated Plan and Annual Action Plan Program.²⁴

Finally, a "Yearly Summary Supplement" will be crated from this AI highlighting the City's accomplishment which satisfies the performance report required under HUD's Consolidated Plan regulations yearly.²⁵

²¹ U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity. *Fair Housing Planning Guide: Volume 1* (Chapter 2: Preparing for Fair Housing Planning, p.25) March 1996.

²² 78 C.F.R. No. 139 §5.152

²³ U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity. *Fair Housing Planning Guide: Volume 1* (Chapter 2: Preparing for Fair Housing Planning) March 1996.

²⁴ City of Lorain Five-Year Consolidated Plan 2015/2016-2019/2020 & Annual Action Plan Program Year 2015-2016.

²⁵ See, *Fair Housing Planning Guide: Volume 1* (Chapter 2: Preparing for Fair Housing Planning) March 1996.

B. METHODOLOGY

The City of Lorain Department of Building, Housing and Planning - Fair Housing Administrator, carried out this Analysis of Impediments to Fair Housing Choice for the City of Lorain.

The primary guidance for developing this Analysis of Impediments was obtained from HUD's Fair Housing Planning Guide of 1996. It is recognized that since that time, HUD's approach to fair housing has evolved. Moreover, a new rule titled "Affirmatively Further Fair Housing Rule" was released in 2015. Since the details and requirements under the new rule are still under development and are not yet mandatory, this AI uses the Fair Housing Planning Guide as an underpinning resource. However, guidance and elements from the new rule were used whenever possible.

Numerous other resources that were reviewed and used in order to complete this AI, including but not limited to the:

- U.S. Census
- American Community Survey
- 2015-2020 Consolidated Plan and Annual Action Plan Program Year 2015/2016

Additionally, the input of residents, various community organization members and leaders was also utilized.

II. FAIR HOUSING LAWS

An overview of Fair Housing laws is important to understand the duty to AFFH. In each jurisdiction whether particular Fair Housing laws apply in a situation, depends on the:

- **Person**
- **Property**
- **Behavior**

Is the Person covered?

A person is covered if they are part of a “*protected class*.” A group sharing particular protected characteristics is part of a protected class as specified by a jurisdiction.

Is the Property covered?

Fair housing laws apply to the occupancy, sale, rental, insuring, or financing of nearly all forms of residential housing. Specific exemptions, if any, are explained in the following sections.

Is the Behavior covered?

Behavior is covered if it results in either differential treatment or a disparate impact on members of a protected class.

Differential Treatment = the negative treatment of a person because of his or her membership in a protected class.

Differential Impact = this occurs when a policy or system has a negative effect on members on a protected class, regardless of the intent.

Fair Housing laws exist at the federal, state and in some local level jurisdictions. The federal Fair Housing Act offers federal protection against housing discrimination. Ohio law, under the **Ohio Revised Code 4112.02** expands this protection including two additional protected classes (“*ancestry*” and “*military status*”), and the *City of Lorain, Fair Housing Ordinance 147-08 – Chapter 136*, offer even broader protection than the federal Fair Housing Act by including six additional protected classes (“*ancestry*,” “*sex orientation*,” “*age*,” “*ethnic group*,” “*Vietnam-era or disabled veteran status*,” and “*marital status*”).

The table below summarizes the protected classes under the different applicable jurisdictions for this AI. Additional information is provided for each applicable jurisdiction in the following sub-sections, including enforcement and respective complaint processes.

Protected Classes

	FEDERAL	STATE	CITY OF LORAIN
Protected Class	42 U.S.C. § 3601	O.R.C. § 4112.02	Fair Housing Ordinance 147-08 Chapter 136
RACE	X	X	X
COLOR	X	X	X
NATIONAL ORIGIN	X	X	X
RELIGION	X	X	X
SEX (GENDER)	X	X	X
FAMILIAL STATUS	X	X	X
DISABILITY (HANDICAP)	X	X	X
MILITARY STATUS		X	
ANCESTRY		X	X
SEX ORIENTATION			X
AGE			X
ETHNIC GROUP			X
VIETNAM-ERA OR DISABLED VETERAN STATUS			X
MARITAL STATUS			X
SOURCE OF INCOME			

A. Federal Law

The Civil Rights Act of 1964 (Title VI) was passed, in an effort to prevent further discrimination in the United States. This law prohibits discrimination and the segregation of any place of public accommodation and within federally assisted programs, on the basis of *race, color or national origin*. Additionally, it authorizes withholding of federal funding from states and local grantees engaging in discriminatory activities and practices. However, this law does not address housing and discrimination issues specifically.

Due to persistent issues of discrimination in the housing sector, Congress passed the Civil Rights Act of 1968, commonly known as Title VIII – The Fair Housing Act, in order to address specific fair housing issues. The Fair Housing Amendments Act of 1988 expanded the protection of the Fair Housing Act of 1968 by adding *handicapped* and *familial status* to the list of protected classes. As part of the 1988 amendments, the power to enforce the Fair Housing Act also increased with stiffer penalties and the establishment of an administrative enforcement mechanism. Moreover, the Americans with Disabilities Act of 1990 added additional protections for persons with disabilities under the Fair Housing Act.

Currently, the federal Fair Housing Act, as amended, prohibits discrimination in the sale, rental and financing of dwellings, and in other public or private housing-related transactions, based on:

- ❖ *Race*
- ❖ *Color*
- ❖ *National Origin*
- ❖ *Religion*
- ❖ *Sex*
- ❖ *Familial Status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people in the process of securing legal custody of children under the age of 18)*
- ❖ *Disability (Handicap)*

Therefore, any person that belongs to any of the “protected classes” above is cover under the federal Fair Housing Act.

Covered Properties²⁶

Under the federal Fair Housing Act most housing properties are cover. In some circumstances, the federal Fair Housing Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy of members. Whereas it is important to mention that the same exceptions might not apply to some states and local jurisdictions. In fact, most of these exceptions do not apply in the State of Ohio and the City of Lorain.

²⁶ U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity. Fair Housing Equal Opportunity for All (p. 1). 2011.

Prohibited Behavior²⁷

In the **sale and rental of housing**: No one may engage in any of the following behaviors based on race, color, religion, sex, disability, familial status, or national origin:

- ❖ Refuse to rent or sell housing
- ❖ Refuse to negotiate for housing
- ❖ Make housing unavailable
- ❖ Otherwise deny a dwelling
- ❖ Set different terms, conditions or privileges for sale or rental of a dwelling
- ❖ Provide different housing services or facilities
- ❖ Falsely deny that housing is available for inspection, sale or rental
- ❖ For profit, persuade, or try to persuade homeowners to sell or rent dwellings by suggesting that people of a particular race, etc., have moved, or are about to move into the neighborhood (blockbusting) or
- ❖ Deny any person access to, membership or participation in, any organization, facility or service (such as a multiple listing service) related to the sale or rental of dwellings, or discrimination against any person in the terms or conditions of such access, membership or participation.

In **mortgage lending**: No one may take any of the following actions based on race, color, religion, sex, disability, familial status, or national origin:

- ❖ Refuse to make a mortgage loan
- ❖ Refuse to provide information regarding loans
- ❖ Impose different terms or conditions on a loan, such as differential interest rates, points, or fees
- ❖ Discriminate in appraising property
- ❖ Refuse to purchase a loan or
- ❖ Set different terms or conditions for purchasing a loan

²⁷ U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity. Fair Housing Equal Opportunity for All (p. 1- 6). 2011

In addition, the following behavior is prohibited under the Fair Housing Act:

- ❖ Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise the right
- ❖ Make, print, or publish any statement, in connection with the sale or rental of a dwelling, which indicates a preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, or national origin
(This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the federal Fair Housing Act.)
- ❖ Refuse to provide homeowners insurance coverage for a dwelling because of the race, color, religion, sex, disability, familial status, or national origin of the owner and/or occupants of a dwelling
- ❖ Discriminate in the terms or conditions of homeowners insurance coverage because of the race, color, religion, sex, disability, familial status, or national origin of the owner and/or occupants of a dwelling
- ❖ Discriminate in the terms or conditions of homeowners insurance coverage because of the race, color, religion, sex, disability, familial status, or national origin of the owner and/or occupants of a dwelling
- ❖ Refuse to provide available information on the full range of homeowners insurance coverage options available because of the race, etc. of the owner and/or occupants of a dwelling
- ❖ Make print or publish any statement, in connection with the provision of homeowners' insurance coverage, that indicates a preference, limitation or discrimination based on race, color, religion, sex, disability, familial status, or national origin.

Additional Protection for Persons with Disability

“Disability” is defined as:

- ❖ Having a physical or mental impairment (including hearing, mobility and visual impairments, cancer, chronic mental illness, HIV/AIDS, or mental retardation) that substantially limits one or more major life activities
- ❖ A record of such an impairment or
- ❖ Being regarded as having such impairment.

For a person with a disability a housing provider may not:

- Refuse to let that person make reasonable modifications to their dwelling or common use areas, at their own expense, if it may be necessary for full use of the housing. (Where reasonable, a landlord may permit changes only if the person agrees to restore the property to its original condition when they leave.)

- Refuse to make reasonable accommodations in rules, policies, practices or services if it may be necessary for that person to use the housing on an equal basis with nondisabled persons.

Example: A building with a “no pets” policy must allow a visually impaired tenant to keep a guide dog.

Example: An apartment complex that offers tenant’s ample, unassigned parking must honor a request from a mobility-impaired tenant for a reserved space near that person’s apartment if it may be necessary to assure access to that person’s apartment.

However, the Fair Housing Act does not protect a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.

Accessibility Requirements for New Multifamily Buildings:

In buildings with four or more units that were first occupied after March 13, 1991, and that have an elevator:

- ❖ Public and common use areas must be accessible to persons with disabilities
- ❖ All doors and hallways must be wide enough for wheelchair
- ❖ All units must have:
 - An accessible route into and through the unit
 - Accessible light switches, electric outlets, thermostats and other environmental controls
 - Reinforced bathroom walls to allow later installation of grab bar and
 - Kitchens and bathrooms that can be used by people in wheelchairs.

If a building with four or more units has no elevator and was first occupied after March 13, 1991, these standards apply to ground floor units only.

These accessibility requirements for new multifamily buildings do not replace more stringent accessibility standards required under State or local law.

Familial Status²⁸

The Fair Housing Act makes it unlawful to discriminate against a person whose household includes one or more children who are under 18 years of age. *Familial status* protection covers households in which one or more minor children live with:

- A parent;
- A person who has legal custody (including guardianship) of a minor child or children; or
- The designee of a parent or legal custodian, with the written permission of the parent or legal custodian.

Familial status protection also extends to pregnant women and any person in the process of securing legal custody of a minor child (including adoptive or foster parents).

Familial Status Exemption:**“Housing for Older Persons”**

The Fair Housing Act specifically exempts some senior housing facilities and communities from liability for *familial status* discrimination. Exempt senior housing facilities or communities, can lawfully refuse to sell or rent dwellings to families with minor children. In order to qualify for the “housing for older persons” exemption, a facility or community must prove that its housing is:

- Provided under any State or Federal program that HUD has determined to be specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
- Intended for, and solely occupied by persons 62 years of age or older; or
- Intended and operated for occupancy by persons 55 years of age or older.

²⁸ 42 U.S.C. § 3602 (k)

In order to qualify for the “55 or older” housing exemption, a facility or community must satisfy each of the following requirements:

- at least 80 percent of the units must have at least one occupant who is 55 years of age or older; and
- the facility or community must publish and adhere to policies and procedures that demonstrated the intent to operate as “55 or older” housing; and
- the facility or community must comply with HUD’s regulatory requirements for age verification of residents.

The “housing for older persons” exemption does not protect senior housing facilities or communities from liability for housing discrimination based on race, color, religion, sex, disability or national origin.

Additionally, federally subsidized housing providers are never permitted to exclude children from their housing. As stated in the Federal Register:

“... no public housing development funded by HUD may exclude families with children, even if at least 80% of the units are occupied by at least one person who is 55 years of age or older.”²⁹

²⁹ 64 Fed. Reg. 16327 (April 2, 1999).

LGBT Community³⁰

The federal Fair Housing Act does not specifically include sexual orientation and gender identity as prohibited bases. However, a lesbian, gay, bisexual, or transgender (LGBT) person's experience with sexual orientation or gender identity housing discrimination may still be covered by the federal Fair Housing Act under certain circumstances.

Additionally, housing providers that receive HUD funding, have loans insured by the Federal Housing Administration (FHA), as well as lenders insured by FHA, may be subject to HUD program regulations intended to ensure equal access of LGBT persons. Related to this matter, HUD published its final administrative rule regarding equal access to housing in all HUD programs regardless of sexual orientation or gender identify, effective February 2012.³¹

Examples of Prohibited Scenarios:³²

- A gay man is evicted because his landlord believes he will infect other tenants with HIV/AIDS. That situation may constitute illegal discrimination under the Act because the man is perceived to have a disability, HIV/AIDS.³³
- A property manager refuses to rent an apartment to a prospective tenant who is transgender. If the housing denial is because of the prospective tenant's non-conformity with gender stereotypes, it may constitute illegal discrimination on the basis of sex under the federal Fair Housing Act.
- An underwriter for an FHA insured loan is reviewing an application where two male incomes are being used as the basis for the applicants' credit worthiness. The underwriter assumes the applicants are a gay couple and, as a result, denies the application despite the applicants' credentials. This scenario may violate HUD's regulations, which prohibit FHA-insured lenders from taking actual or perceived sexual orientation into consideration in determining adequacy of an applicant's income.

³⁰ http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp.

³¹ Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, 77 C.F.R. No. 23 (2012).

³² http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/LGBT_Housing_Discrimination.

³³ HIV/AIDS is protected under the Fair Housing Act as a disability. For a full discussion see: <http://blog.hud.gov/index.php/2015/04/07/housing-discrimination-hiv-aids-illegal/>.

Complaint Process

A complaint under the federal Fair Housing Act may be file online, by mail, via telephone, or by visiting HUD. Individuals can also choose to file a federal fair housing complaint through any of HUD’s regional offices.³⁴ After HUD receives a Fair Housing complaint, an intake specialist contacts the complainant for an interview and collection of facts about the alleged discrimination. However, if after a thorough investigation, HUD finds no reasonable cause to believe that housing discrimination has occurred or is about to occur, HUD will issue a determination of “no reasonable cause” and close the case. If the complaint is not successfully mediated and the investigation produces reasonable cause to believe that discrimination has occurred or is about to occur, HUD will issue a determination of “reasonable cause” and charge the respondent with violating the law. HUD will then schedule a hearing before a HUD Administrative Law Judge. It is important to mention that at any point, either party may elect to terminate the administrative proceeding by electing to have the matter litigated in federal court.³⁵

Contact Information for Federal Complaints:**Address: Headquarters**

U.S. Department of Housing and Urban Development
451 7th Street S.W., Washington, DC 20410

Local Office (Region V)

U.S. Department of Housing and Urban Development
Cleveland Field Office
US Bank Centre Building
1350 Euclid Avenue, Suite 500
Cleveland, OH 44115-1815

Telephone: U.S. Department of Housing and Urban Development
Fair Housing Complaint Hotline 1-800-669-9777

Website: http://portal.hud.gov/portal/page/HUD/topics/housing_discrimination

³⁴ http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination.

³⁵ http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/complaint-process

**Chronological Summary of Important Federal Constitutional
Acts, Legislation and Executive Orders:**

1797	U.S. Constitution (Article 1, Section 2)	For purpose of representation, slaves are counted as three-fifths of a person.
1791	Bill of Rights (First 10 Amendments)	Fifth Amendment guarantees right to “due process.”
1865	13th Amendment	Slavery is abolished and Congress given power to enact appropriate legislation to enforce this Article.
1866	Civil Rights Act of 1866 (42 U.S.C. 1982)	Enacted under authority of the 13 th Amendment, this Act guarantees all real and personal property rights for all U.S. citizens regardless of race.
1868	14th Amendment	This Amendment along with the 5 th Amendment prohibits government discrimination.
1962	Executive Order 11063	Directs all federal agencies to take all actions necessary to prevent discrimination because race, color, creed or national origin. More specifically, prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.
1964	Civil Rights Act of 1964 (Title VI)	Prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal funds.
1965	Executive Order 11246	This executive order, as amended, bars discrimination in federal employment because of race, color, religion, sex, or national origin.

1968	Fair Housing Act (Title VIII)	<ol style="list-style-type: none"> 1) Outlaws private discrimination in housing, including refusal to rent or sell. 2) Also outlaws private discrimination in advertising, terms of sale or rental, blockbusting, and use of real estate services. 3) Exemption for individual owners of single-family home (where no real estate broker is used) if owner does not own more than three such homes. 4) Exemption for housing operations by qualifying religious groups or private clubs.
1968	Architectural Barriers Act	Requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.
1972	Education Amendment (Title IX)	Prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.
1973	Rehabilitation Act (Section 504)	Prohibits discrimination on the basis of disability in any program or activity receiving federal financial assistance, including housing.
1974	Equal Credit Opportunity Act (ECOA)	Prohibits credit discrimination in housing, based upon race, color, religion, national origin, sex, marital status or age.
1974	Housing and Community Development Act of 1974	<ol style="list-style-type: none"> 1) Expands Fair Housing Act to include prohibition of sex discrimination in housing. 2) Creates "Section 8" programs. 3) Establishes Block Grant program and Urban Development Action Grant program.
1975	The Age Discrimination Act	Prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.
1980	Executive Order 12259	Expands protection to include sex-based discrimination and grants HUD additional authority to issue additional regulations.

1988	Fair Housing Amendments	<ol style="list-style-type: none"> 1) Broadens Title VIII to include protected classes of <i>handicapped</i> persons and <i>familial status</i> (with exception of older person housing). 2) Mandates handicapped accessibility requirements for new multi-family properties, and permits handicapped tenants to modify existing housing (at tenant's expense). 3) Increases civil and administrative enforcement relating to potential damages and attorney's fees.
1990	Americans with Disabilities Act	Further prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodation, commercial facilities, and transportation.
1994	Executive Order 12892	Requires federal agencies to affirmatively further fair housing as part of their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort.
1994	Executive Order 12898	Requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.
2000	Executive Order 13166	Eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally-assisted and federally conducted programs and activities.
2001	Executive Order 13217	Requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community-based living arrangements for persons with disabilities.
2013	Violence Against Women Reauthorization Act of 2013 (VAWA 2013)	Expands HUD's authority to protect survivors of domestic and dating violence, stalking, and sexual assault who are residing in housing assisted by HUD.

B. State Law

Ohio's state law governing fair housing is substantially equivalent to federal Fair Housing laws. When HUD determines that state or local laws are substantially equivalent it means that those laws provide substantive rights, procedures, remedies and judicial review provisions that are substantially equivalent to the federal Fair Housing Act. The law in Ohio in addition to being substantially equivalent actually offers broader protection than the federal Fair Housing Act. The **Ohio Revised Code 4112.02(H)** expands federal protection by also prohibiting discrimination based on "*ancestry*" and "*military status*." Additionally, Ohio law offers greater protection covering more housing types. Unlike federal law, exclusions under Ohio law are very limited. For example, the "Mrs. Murphy" exemption (for an owner occupied building with no more than four families living independently of each other) and the exemption for the sale and rental of an owner's single-family home are not included under Ohio's Fair Housing law.³⁶

Enforcement

In Ohio, the Ohio Civil Rights Commission (OCRC) is the agency with the primary responsibility of handling fair housing discrimination complaints.³⁷ Ohio is one of the states with the longest civil rights enforcement mechanism in the country, starting with the enactment of the Ohio Public Accommodations Law of 1884 and the creation of the Ohio Civil Rights Commission (OCRC).

The Ohio Civil Rights Commission was established as a result of the Ohio Civil Rights Act, signed into law in 1959. Originally named the Ohio's Fair Employment Practices Commission, in 1961 it was renamed the Ohio Civil Rights Commission. The Ohio legislature has granted authority to the OCRC to study, advise and issue statements regarding all civil rights related matters of the State. The primary goal of the OCRC is to eliminate discrimination, including housing discrimination, throughout the State of Ohio.

Complaint Process

An individual may file a charge of discrimination with the Ohio Civil Rights Commission by visiting an office in person or online. Once a charge of discrimination is received, the case is assigned to a Civil Rights Field Investigator. Voluntary mediation is first attempted but if mediation is not successful or one of the party declines to participate, a full investigation is conducted. Based on the conclusion of the investigation, the OCRC

³⁶ <http://hud.gov/offices/ftheo/library/fhsymposium.pdf>.

³⁷ <http://crc.ohio.gov> ; See also <http://portal.hud.gov/hudportal/HUD?src=/states/ohio/working/localpo/ftheo>.

will issue a written recommendation as to whether there is a violation of Ohio's Laws against discrimination followed by any other necessary action.³⁸

Contact Information for State Complaints:

Ohio Civil Rights Commission
1-888-278-7101
www.crc.ohio.gov

Chronological Summary of Ohio Laws Against Discrimination:³⁹

July 29, 1959

Enactment of Ohio's Fair Employment Practices Law prohibiting discrimination by reason of race, color, religion, national origin or ancestry. The Ohio Civil Rights Commission was established by the Ohio Legislature as the State Agency responsible for enforcing laws against discrimination.

October 24, 1961

Enactment of law prohibiting discrimination in places of public accommodation.

October 30, 1965

Enactment of law prohibiting discrimination in housing - limited to commercial housing. This designation excluded all residences designed for two families or less which were occupied by owner.

November 12, 1969

Law amended and broadened to include all housing types.

December 19, 1973

Enactment of law prohibiting discrimination by reason of sex.

January 14, 1976

Enactment of law prohibiting discrimination in credit transactions.

July 23, 1976

Enactment of law prohibiting discrimination by reason of disability.

³⁸ <http://crc.ohio.gov/FilingCharge/WhatHappensNext.aspx>

³⁹ Ohio State Legal Services Association. *History of Fair Housing in Ohio*. Ohio Development Services Agency, 1999. Web.

August 18, 1976

Enactment of law prohibiting age discrimination in credit transactions.

November 13, 1979

Law prohibiting discrimination by reason of age broadened.

July 26, 1984

Enactment of law prohibiting discrimination by institutions of higher education by reason of handicap.

September 28, 1987

Housing discrimination law amended and broadened.

May 31, 1990

Age law amended to read 40 and above.

June 30, 1992

Housing law amended to add *familial status* as a protected class to bringing state law conforming to federal Fair Housing Act. State law also amended to bring it into conformity with 1990 Americans with Disabilities Act.

December 16, 1999

H.B. 264 changes the word "*handicap*" to "*disability*" throughout the Ohio Revised Code. Currently, the term handicap is defined as a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

May 17, 2007

Governor Ted Strickland signed Executive Order 2007-10S establishing a policy against discrimination based on sexual orientation or gender identity by the State of Ohio Cabinet agencies, Boards, or Commissions in making the following employment-related decisions: hiring, layoff, termination, transfer, promotions, demotions, rate of compensation, or eligibility for in-service training programs.

March 24, 2008

The "Ohio Veterans Package (Sub. H.B. 372) was signed. "*Military status*" is added to the list of protected classes under R.C. 4112.02. The Act defines "military status" as a "service in the uniformed services," including voluntary or involuntary service in the U.S. armed force, full-time National Guard duty, and duty or training for the State of Ohio.

C. City of Lorain: Fair Housing Laws

The City of Lorain enacted its Fair Housing Ordinance in 1977.⁴⁰ That ordinance was most recently amended in 2008 and 2013, in order to become equivalent to the federal Fair Housing Act. Currently, the City of Lorain Fair Housing law offers greater protection than the federal Fair Housing Act.

City of Lorain Fair Housing Ordinance

The City of Lorain, **Fair Housing Ordinance – Chapter 136**, offers broader protection than the federal Fair Housing Act by including additional protected classes. The current ordinance prohibits discrimination in the sale or rental of housing, brokerage services or financing, based on an individual's *race, sex, color, religion, national origin, disability, and familial status*, in addition to *marital status, ethnic group, ancestry, sex orientation, age, and Vietnam-era or disabled or disabled veteran status*.

Fair Housing Board

The City's Fair Housing Ordinance established a Fair Housing Board. The Fair Housing Board is composed of volunteer members, appointed by the City of Lorain's Mayor. The Fair Housing Board has the responsibility to administer the provisions of the City's Ordinance and to adjudicate complaints alleging violations under the Ordinance. Previously, the Fair Housing Board has subcontracted with other agencies in order to provide fair housing services. Subcontracted agencies have conducted various Fair Housing activities but those agencies lacked the capacity to process Fair Housing Complaints directly under the City's Ordinance. For this reason, the Fair Housing Board has not held any administrative hearing since the enactment of the Ordinance. In order to have the capability of processing complaints and increase compliance within the duty to Affirmatively Furthering Fair Housing, the City added the position of a Fair Housing Administrator as part of the City of Lorain's Building Housing & Planning Department as of 2015.⁴¹ The appointed Fair Housing Administrator is responsible for receiving and processing complaints on behalf of the Fair Housing Board. Additionally, the Fair Housing Administrator, among other duties, conducts community outreach events and educational activities.

⁴⁰ Chapter 136

⁴¹ City of Lorain Codified Ordinance No. 45-15. Passed 4/20/2015.

Complaint Process

The following is a summary of the discriminatory complaint process, for any person alleging a violation under the City's **Fair Housing Ordinance - Sections 136.06 to 136.13**:

- The City's Fair Housing Complaint form must be completed and submitted, within one year of the alleged violation, to the Fair Housing Board or to the Fair Housing Administrator, in order to initiate the discriminatory complaint process.
- Upon the filing of a complaint, the Fair Housing Administrator will acknowledge the receipt of the complaint and serve notice of time limits, along with notice of procedural rights and obligations to all parties within 10 days. The respondent has the right to answer the complaint within 10 days of receipt.
- An investigation, primarily conducted by the Administrator, will commence within 30 days after the complaint has been received.
- Conciliation will be attempted beginning with the receipt of the complaint. If conciliation, through conference, conciliation, or persuasion fails and the investigation concludes, then a determination of reasonable grounds will be completed by the Administrator.
- Before the investigation is complete an informal conciliation may be reached.
- After the conclusion of the investigation if it is determined that there are reasonable grounds, the Administrator shall issue a charge and forward the complaint to the Fair Housing Board for a hearing. If there are no reasonable grounds, a notice of dismissal will be issued to all parties within five days.
- A request for reconsideration of a dismissal may be made within 14 days of receipt of the dismissal.
- If an agreement is reached after the investigation is completed, the terms of the conciliation agreement will be reduced to writing and incorporated into a consent agreement signed by the parties.
- If a charge is issued, either party, in lieu of participating in the administrative hearing process by the Fair Housing Board, may elect to have the case heard as part of a civil action. Such civil action shall be maintained on behalf of the aggrieved person at the expense of the City. Such election must be made within 20 days after the receipt of the charge.
- Prior to the conclusion of a hearing, the parties may request the Board to issue subpoenas for individuals or documents. The parties may appear before the Board in person or by duly authorized representative. Also, the parties

have the right to present witness and to cross-examine witnesses.

Additionally, all testimony and evidence shall be given under oath or by affirmation as part of the hearing process.

- If after a hearing, the Board finds an unlawful practice, it may: (1) order the respondent to permit the complainant such rights or privileges as that were allegedly violated (2) order respondent to perform an affirmative act that would otherwise have been performed had the complainant not been discriminated against (3) issue a cease and desist order, or take any other remedial action, as deemed appropriate, according but not limited to Section 136.12.
- At any time the Board may grant injunctive relief.
- Additionally, if the respondent fails to comply with any orders of the Board, or an investigation and a hearing finds a Fair Housing violation, the case and/or complaint may be transferred to the Director of Law, by the Board, so that a complaint is filed with the court of competent jurisdiction.
- Upon a final determination, a complainant has the right to seek any remedy to which he or she might otherwise be entitled and may file a complaint with any other agency or court of law.
- A final administrative adverse disposition by the Board may be appealed pursuant the Ohio Revised Code Chapter 2506 or in such other forum or court of competent jurisdiction as provided by law.

Complaints Filed in the City of Lorain

Since the City of Lorain now has the capability of processing and investigating complaints under the City's Ordinance, due to the added Fair Housing Administrator position, the first Fair Housing Complaint was filed during 2015. This was the first internally processed complaint since the enactment of the City's Fair Housing Ordinance in 1977. The basis of the complaint was alleged *familial status* and *sex* (gender) discrimination. Upon conciliation, all issues were resolved favorably and the file was closed.

Complaints Filed with HUD

The following table illustrates all complaints filed federally with HUD's Office of Fair Housing & Equal Opportunity by residents of the City of Lorain between January, 2004 and July, 2014.

City of Lorain Complaints Filed 2004-2014

HUD FILE NUMBER	HUD DATE FILED	ISSUES DESCRIPTION	BASIS	STATUS
05-04-0547-8	1/14/2004	- Discriminatory refusal to rent - Discrimination in terms/conditions/privileges relating to rental	Race	No Cause
05-04-1521-8	5/28/2004	- Discriminatory acts under Section 818 (coercion, etc.)	Race	Administrative Closure
05-04-1057-8	5/21/2004	- Failure to permit reasonable modification	Disability	Conciliated
05-04-1268-8	9/2/2004	- Discriminatory refusal to rent	Race	Withdrawn with Resolution
05-05-0021-8	10/14/2004	- Discrimination in services and facilities relating to sale	Disability	Conciliated
05-05-0579-8	12/9/2004	- Discriminatory refusal to rent - Discriminatory acts under Section 818 (coercion, etc.)	Familial Status	Administrative Closure
05-05-0582-8	12/16/2004	- Discriminatory refusal to rent	Race	No Cause
05-05-0521-8	2/1/2005	- Discriminatory refusal to rent	Retaliation	Conciliated
05-05-0461-8	2/8/2005	- Discrimination in terms/conditions/privileges relating to rental - Discriminatory acts under 818 (coercion, etc.)	Race, Disability, Religion	No Cause
05-05-0675-8	3/2/2005	- Discriminatory acts under Section 818 (coercion, etc.)	Retaliation	Conciliated
05-05-0676-8	3/3/2005	- Discriminatory refusal to rent	Race	No Cause

05-05-0873-8	4/27/2005	- Discriminatory acts under Section 818 (coercion, etc.)	National Origin	Administrative Closure
05-05-1436-8	7/29/2005	- Failure to make reasonable accommodation	Disability	Withdrawn with Resolution
05-06-0122-8	10/12/2005	- Discriminatory acts under Section 818 (coercion, etc.)	Retaliation	No Cause
05-06-0816-8	2/23/2006	- Failure to make reasonable accommodation	Disability	Administrative Closure
05-06-0682-8	3/1/2006	- Discriminatory financing	Race	No Cause
05-06-1143-8	4/24/006	- Discriminatory terms, conditions, privileges, or services and facilities - Discrimination in terms/conditions/privileges relating to rental	Race, Religion, Retaliation	No Cause
05-06-1144-8	4/24/2006	- Discriminatory refusal to negotiate for rental - Other discriminatory acts	Race, Color Retaliation	No Cause
05-06-1930-8	8/15/2006	- Discriminatory refusal to rent - Discriminatory terms, conditions, privileges, or services and facilities	Race, Familial Status, National Origin, Sex, Color, Retaliation	No Cause
05-08-0438-8	1/18/2008	- Discriminatory refusal to rent and negotiate for rental	Race	No Cause
05-08-0348-8	12/14/2007	- Discriminatory refusal to rent	Sex	Conciliated
05-08-1184-8	4/28/2008	- Discriminatory refusal to negotiate for sale	Race, National Origin, Sex	No Cause
05-08-1196-8	4/28/2008	- Discrimination in terms/privileges relating to sale	Race, National Origin, Sex	No Cause
05-09-0480-8	12/8/2008	- Discrimination in terms/conditions/privileges relating to rental	Sex, Retaliation	Conciliated

05-09-1689-8	8/18/2009	- Discriminatory advertising, statements and notices - Discrimination in terms/conditions/privileges relating to rental - Failure to make reasonable accommodation	Disability	Withdrawn with Resolution
05-10-0481-8	1/8/2010	- Discriminatory refusal to rent	Race, Disability, Retaliation	No Cause
05-09-0480-8	12/8/2008	- Discrimination in terms/conditions/privileges relating to rental	Sex, Retaliation	Conciliated
05-09-1689-8	8/18/2009	- Discriminatory advertising, statements and notices - Discrimination in terms/conditions/privileges relating to rental - Failure to make reasonable accommodation	Disability	Withdrawn with Resolution
05-10-0481-8	1/8/2010	- Discriminatory refusal to rent	Race, Disability, Retaliation	No Cause
05-09-0480-8	12/8/2008	- Discrimination in terms/conditions/privileges relating to rental	Sex, Retaliation	Conciliated
05-09-1689-8	8/18/2009	- Discriminatory advertising, statements and notices - Discrimination in terms/conditions/privileges relating to rental - Failure to make reasonable accommodation	Disability	Withdrawn with Resolution
05-10-0481-8	1/8/2010	- Discriminatory refusal to rent	Race, Disability, Retaliation	No Cause

05-09-0480-8	12/8/2008	- Discrimination in terms/conditions/privileges relating to rental	Sex, Retaliation	Conciliated
05-09-1689-8	8/18/2009	- Discriminatory advertising, statements and notices - Discrimination in terms/conditions/privileges relating to rental - Failure to make reasonable accommodation	Disability	Withdrawn with Resolution
05-10-0481-8	1/8/2010	- Discriminatory refusal to rent	Race, Disability, Retaliation	No Cause
05-10-1158-8	6/2/2010	- Otherwise deny or make housing unavailable	National Origin	N Cause
05-10-1465-8	7/22/2010	- Discriminatory refusal to rent	Race, Sex	Administrative Closure
05-11-0898-8	10/26/2010	- Discriminatory terms, conditions, privileges, or services and facilities	Sex, Retaliation	No Cause
05-11-1618-8	8/19/2011	- Failure to make reasonable accommodation	Disability	Withdrawn with Resolution
05-12-0888-8	5/24/2012	- Discriminatory advertisement	Familial Status	Conciliated
05-10-1158-8	6/2/2010	- Otherwise deny or make housing unavailable	National Origin	No Cause
05-10-1465-8	7/22/2010	- Discriminatory refusal to rent	Race, Sex	Administrative Closure
05/11/0898-8	10/26/2010	- Discriminatory terms, conditions, privileges, or services and facilities	Sex, Retaliation	No Cause

Outreach and Education

In order to continue furthering fair housing more effectively, instead of contracting out an internal position of a Fair Housing Administrator was created. The primary purpose of the Fair Housing Administrator is to work with the City's Fair Housing Board, enforce the City's Fair Housing Ordinance and conduct activities that would create awareness regarding Fair Housing laws.

During the past year, some of the actions by the City's Fair Housing Administrator in order to continue affirmatively furthering fair housing include:

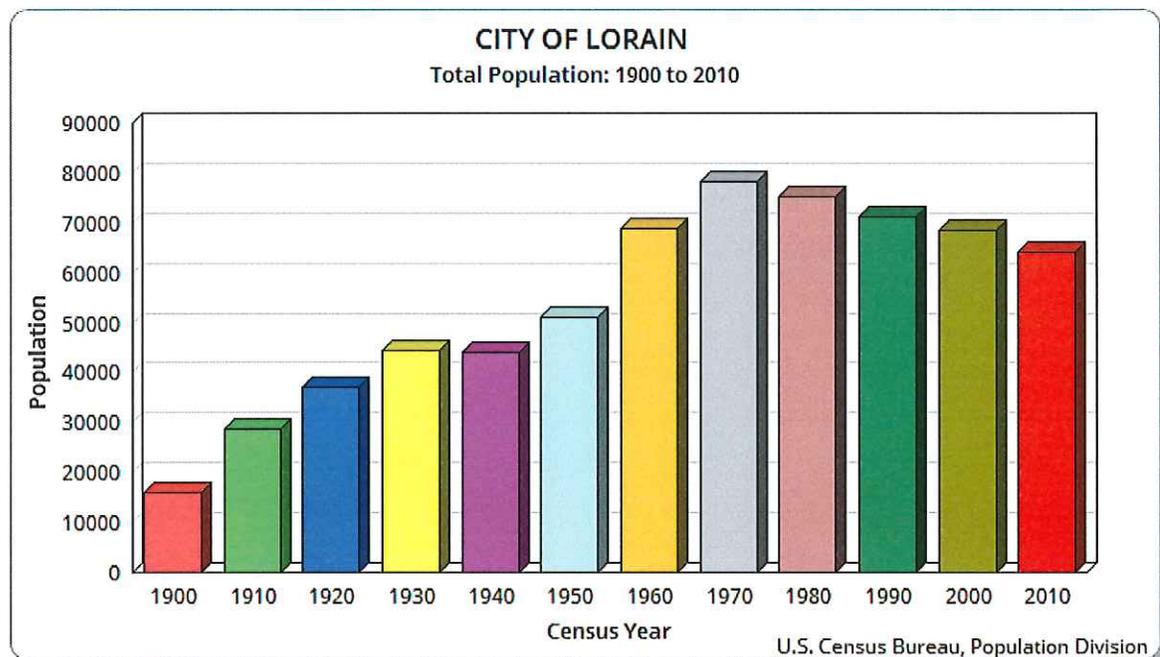
- The creation of a Bilingual, English and Spanish, Fair Housing Complaint Form.
- Employee training at local community organizations, on fair housing laws.
- The distribution of literature, flyers, and the Fair Housing Complaint Form to local libraries and organizations.
- Screening local newspapers and Internet advertisement periodically to ensure compliance with Fair Housing federal, state and local laws.
- A free Fair Housing Conference, during the Fair Housing Month of April.
- Attending and guiding individuals that have called or came to City Hall seeking assistance regarding Fair Housing or housing in general.
- Conducting a Fair Housing Poster Contest, in which students 4th to 8th grade that live in the City participated, with the winning student being recognized by the City and artwork used as part of a Fair Housing Billboard.
- The use several Billboards through the City, using the artwork of the Fair Housing Poster Winner, in order to create awareness of local Fair Housing resources available within the City.
- Processing the City's first Fair Housing Complaint filed internally, which was handled successful through mediation.
- Reviewing and successfully influencing the Lorain Metropolitan Housing Authority into updating their definition of "family" and other terms, in order to comply and mirror fair housing laws.
- Being able to assist people seeking assistance in Spanish or that preferred Spanish, as a fully Bilingual Fair Housing Administrator.
- Working towards completing a new Analysis of Impediments to Fair Housing Choice for the City of Lorain.

III. JURISDICTIONAL BACKGROUND DATA

The history of the City of Lorain can be traced back to the early part of the 19th century. The City of Lorain is situated on Lake Erie at the mouth of Black River, in Lorain County. Originally, the City was established as a trading post in 1807 known as Canesadooharie. Later the name was changed to Charlestown, and the City became known as Lorain in 1874. During the City’s early existence it was known as a small finishing and boating community. The coming of the railroad spurred economic development and population expansion in 1872, which was followed by the production of steel beginning in 1894. Following the first and second world wars, the minority population in the City expanded considerable because of the availability of manufacturing jobs. During and after the Second World War the availability of manufacturing jobs increased greatly, which African-Americans and Hispanic/Latinos to relocate to Lorain for employment.

Population

The population of the City of Lorain had a steady population growth from the 1940’s through the 1970’s. The City has since that time had a small population decline continuing through present.



City of Lorain: Total Population 1900 to 2010

1900	1910	1920	1930	1940	1950	1960	1970	1980	1990	2000	2010
16,028	28,883	37,295	44,512	44,125	51,202	68,932	78,185	75,416	71,245	68,652	64,097

As of 2014, the City was home to a population of 63,776. According to the Census data, the City is expected to continue slightly losing population

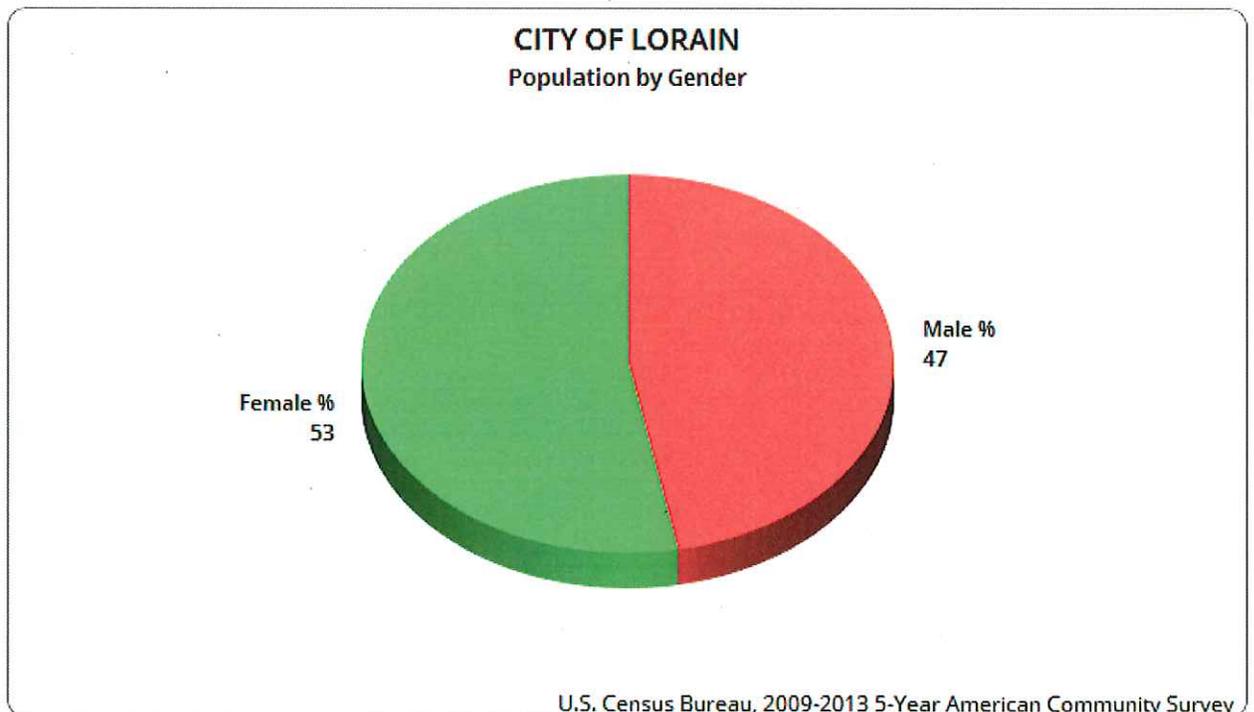
Annual Estimates of Resident Population: April 1, 2010 to July 1, 2014

	2010 Census	Population Estimates: (as of July 1)				
	<i>April 1</i>	2010	2011	2012	2013	2014
City of Lorain, OH	64,097	64,081	63,968	63,778	63,748	63,776

The City’s population is 53% female and 47% male. According to the Census this ratio has remained relatively steady over the past most recent years.

Population by Gender

	Male	Female
City of Lorain	29,965	34,052



People with Disabilities constitute 19.2% of the City's population. There are various disability types but the most common is ambulatory difficulty with 10.4% of the population.⁴² The second highest is cognitive difficulty at 8.84% of all disabilities, which may have implications for the need for supportive housing.

City of Lorain: Disability by Type

Disability Type	#	%
Hearing Difficulty	2,945	4.98
Vision Difficulty	2,185	3.70
Cognitive Difficulty	5,224	8.84
Ambulatory Difficulty	6,144	10.4
Self-Care Difficulty	1,975	3.34
Independent Living Difficulty	4,144	7.01

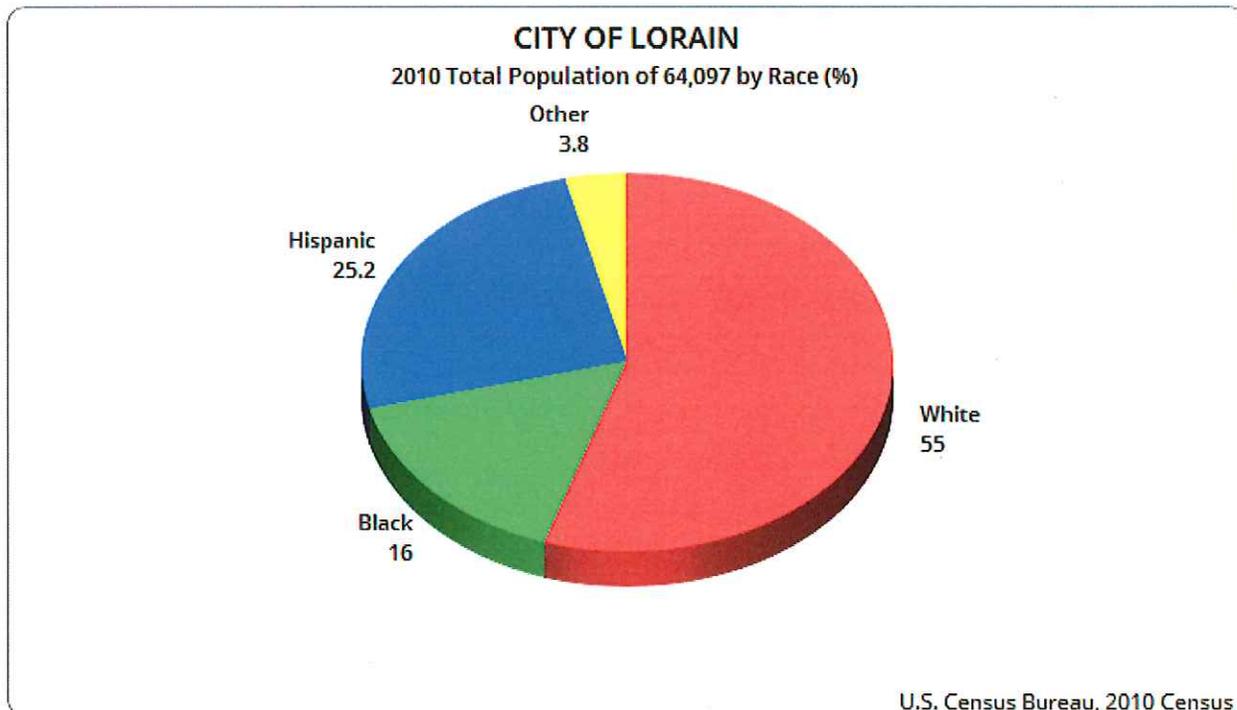
Source: Decennial Census, ACS

⁴² U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates.

The City of Lorain has historically had a larger minority population than the rest of Lorain County. Its residents and local community sometimes call Lorain the “International City” because it is a City with lots of different ethnic cultures and groups.

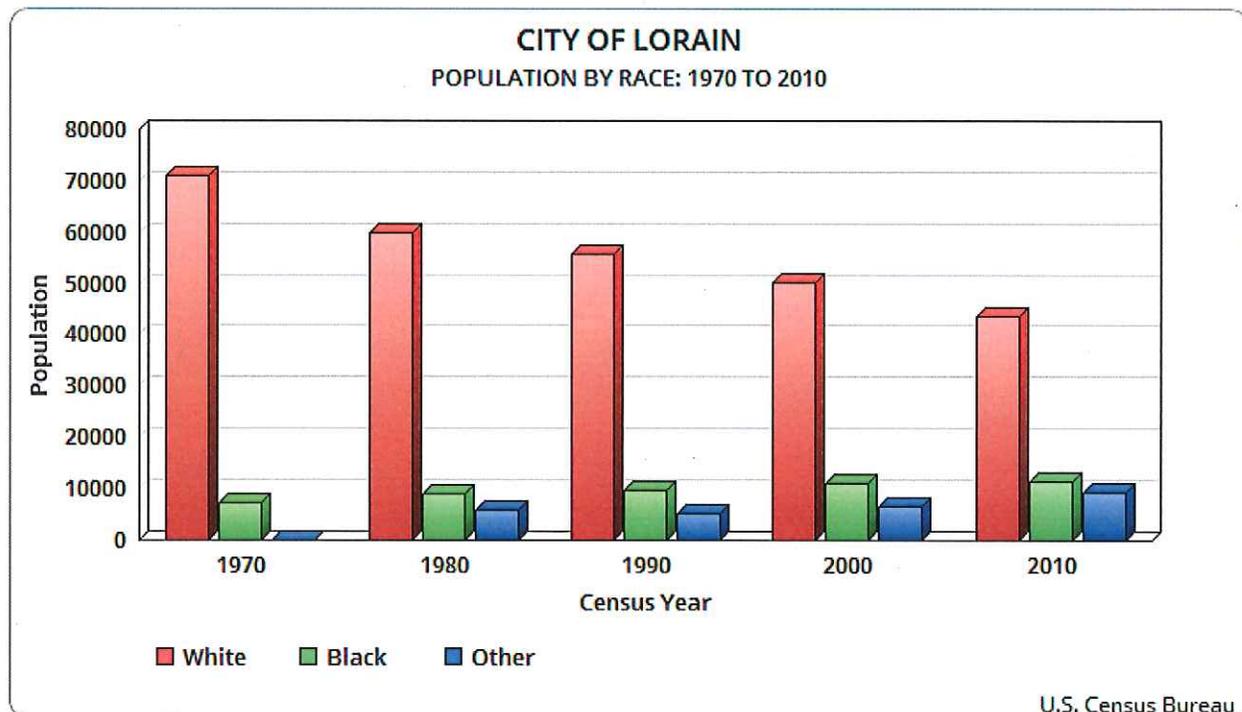
Demographics: Race/Ethnicity

Race/Ethnicity	Lorain, OH	
	#	%
White, Non-Hispanic	35,269	55.00
Black, Non-Hispanic	10,269	16.00
Hispanic	16,177	25.20
Asian, Non-Hispanic	206	.30
Other, Non-Hispanic	2,176	3.50

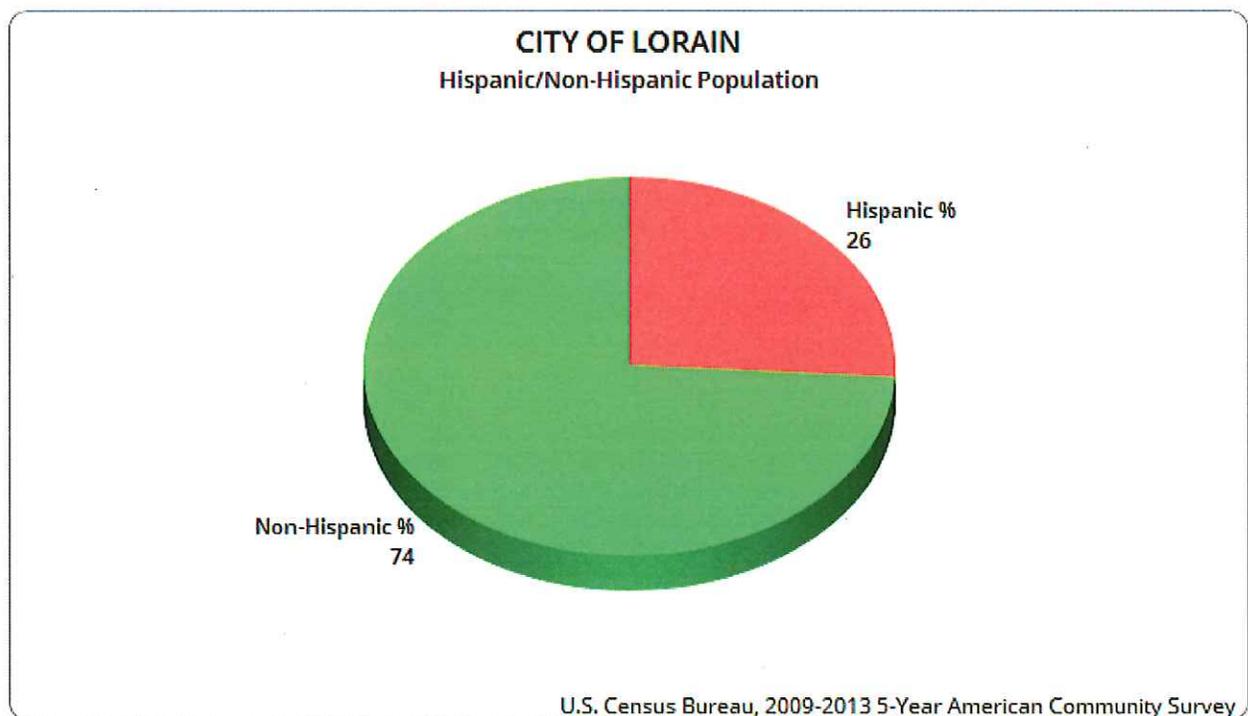
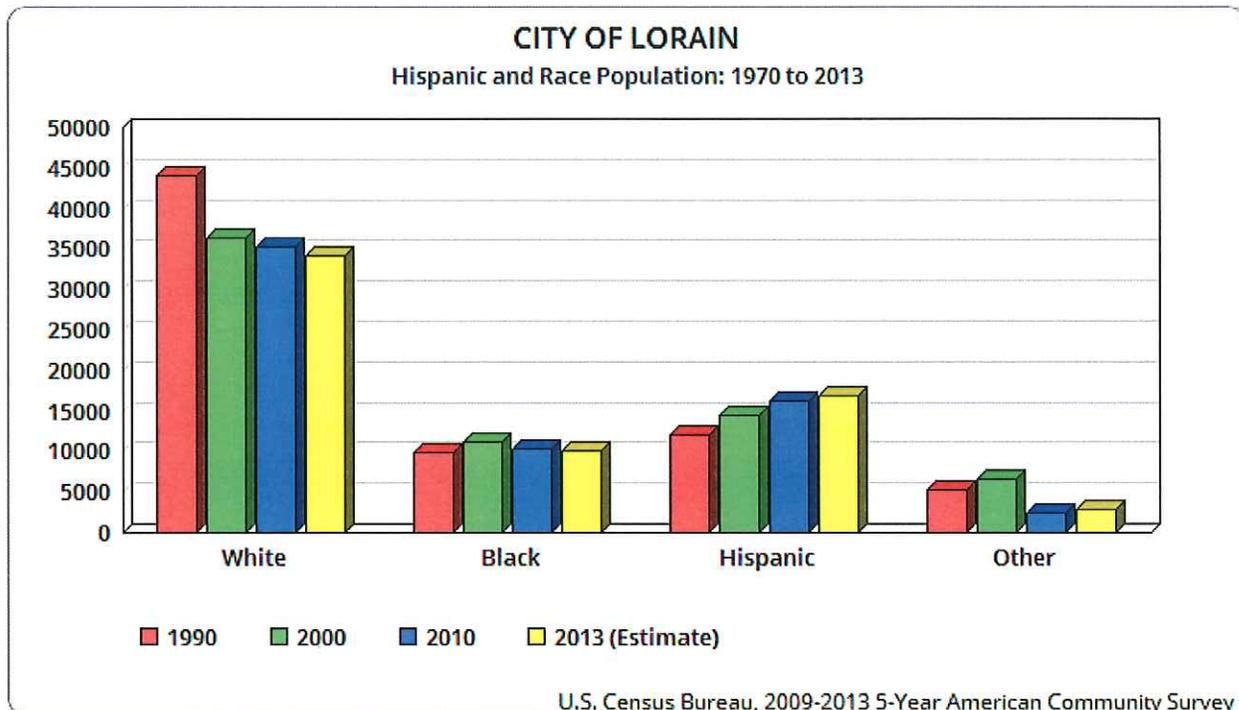


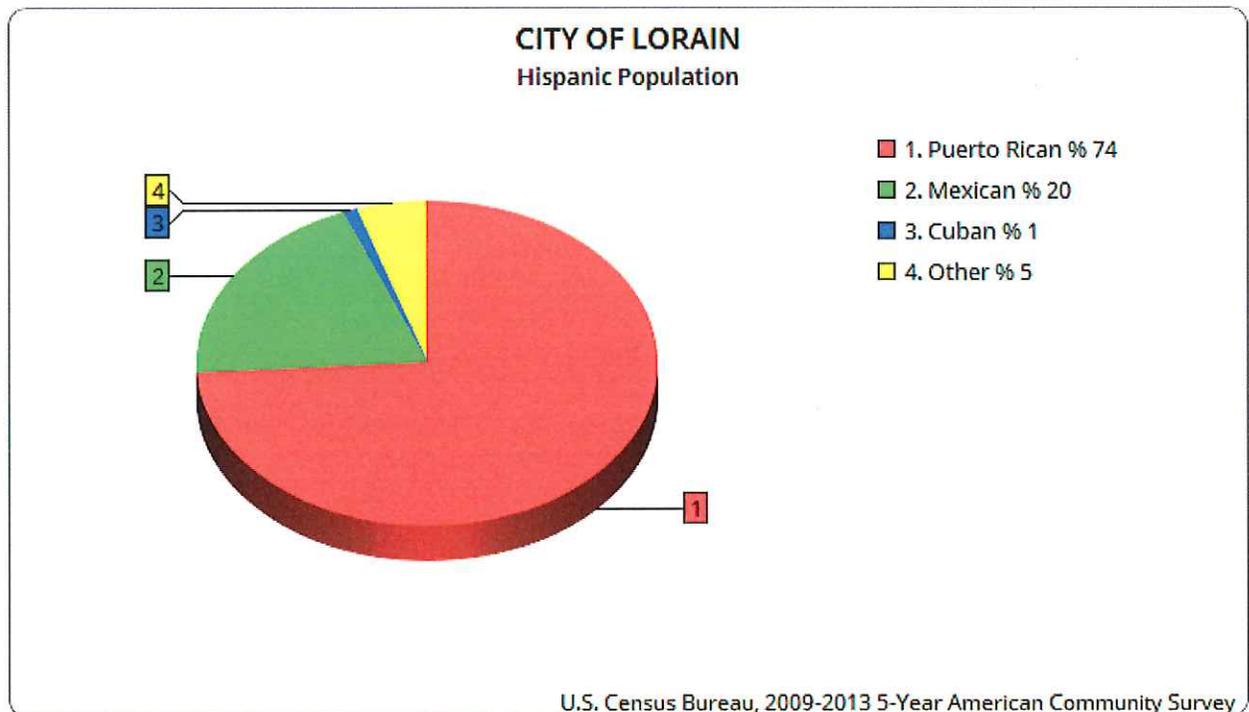
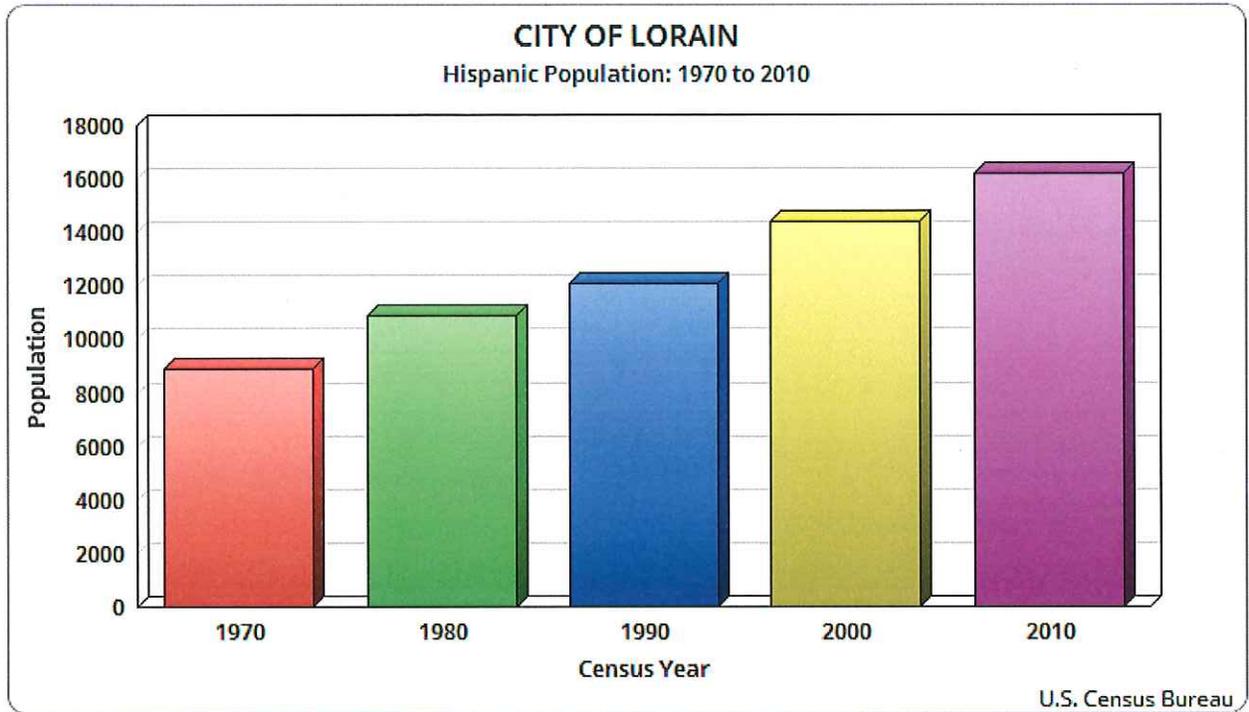
In terms of racial and ethnic percentage the greatest increase is credited to the “other race” population. The “other race” option encompasses individuals who do not identify solely within any of the listed race options. Respondents reporting entries such as multiracial, mixed, interracial, or a Hispanic or Latino group (for example, Mexican, Puerto Rican, Cuban, or Spanish) in response to the race question are included in this category.

The City of Lorain has the largest African American population of the rest of Lorain County. Additionally, the City of Lorain has the largest Puerto Rican population between New York and Chicago.

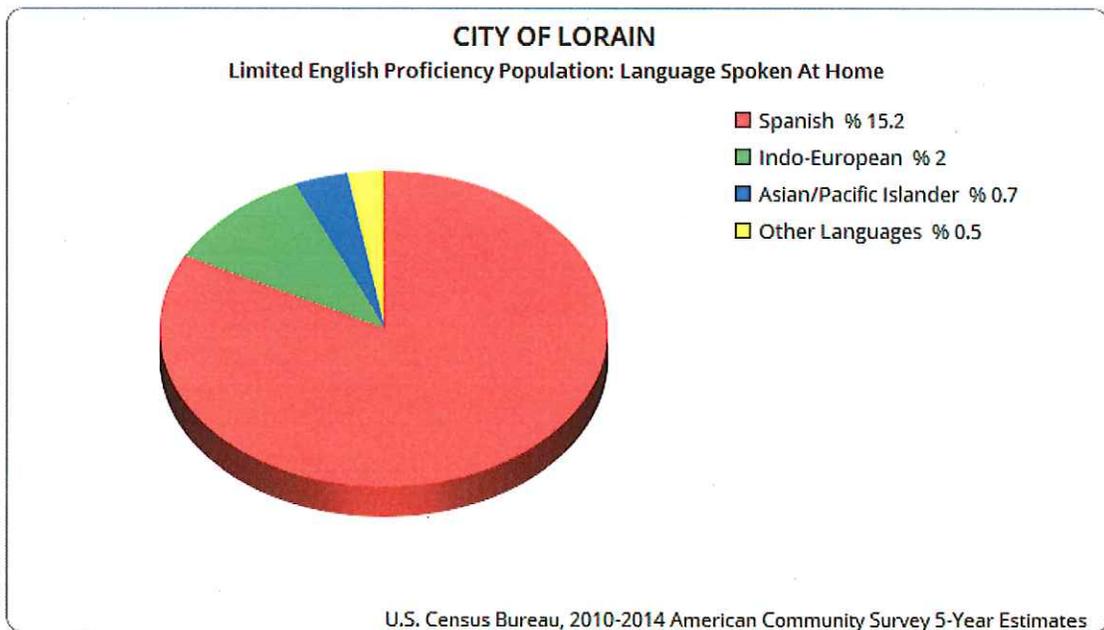
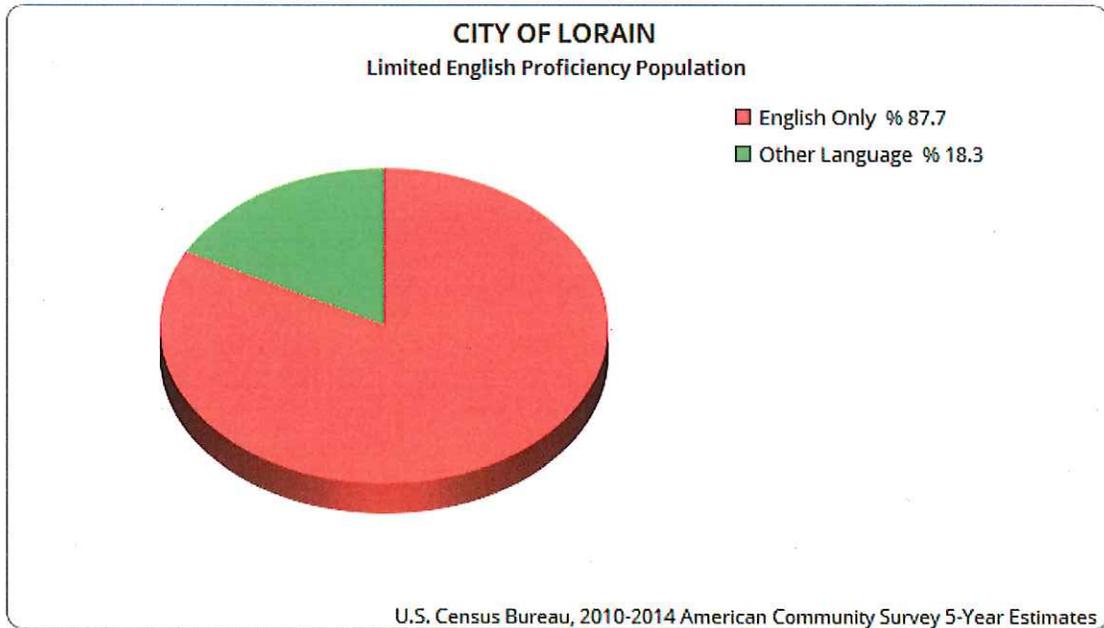


The Hispanic population in the City of Lorain has consistently increased since the 1970's.





The limited English proficiency population of the City of Lorain is 18.3%. Spanish is by far the language most spoken at home for those with limited English proficiency with 15.2% of the population speaking Spanish at home.



The following table illustrates the different ancestry percentages in the City of Lorain.

City of Lorain: Ancestry

ANCESTRY	Percentage
American	5.4%
Arab	0.4%
Czech	0.3%
Danish	0.1%
Dutch	0.7%
English	6.4%
French (except Basque)	1.1%
French Canadian	0.2%
German	14.1%
Greek	0.8%
Hungarian	4.2%
Irish	11.8%
Italian	8.3%
Lithuanian	0.3%
Norwegian	0.1%
Polish	6.9%
Portuguese	0.1%
Russian	0.6%
Scotch-Irish	0.5%
Scottish	1.2%
Slovak	2.6%
Subsaharan African	0.9%
Swedish	0.3%
Swiss	0.2%
Ukrainian	0.7%
Welsh	0.4%
West Indian (excluding Hispanics)	0.2%

Source: U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates

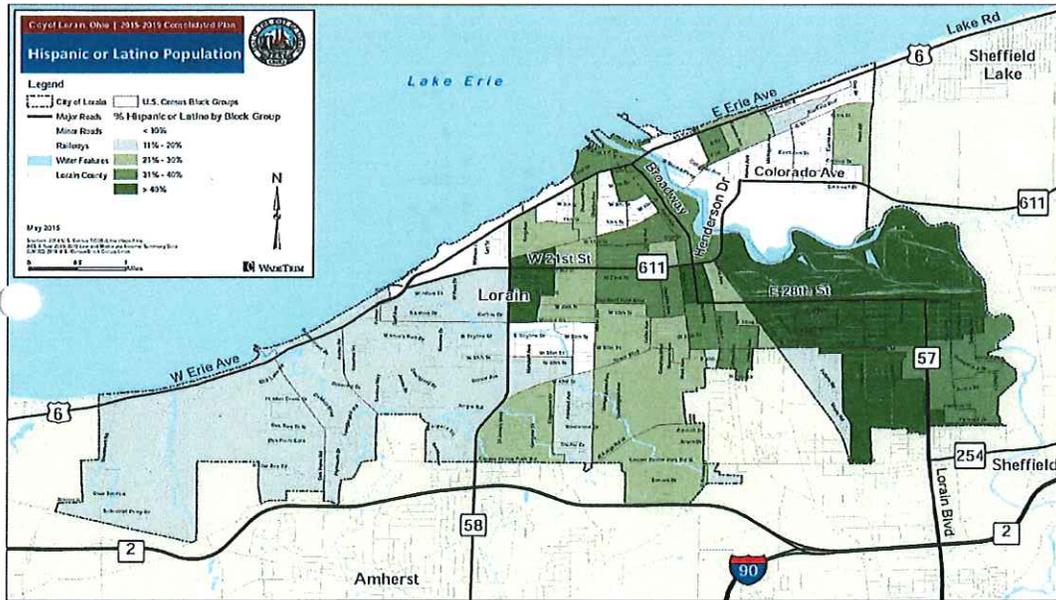
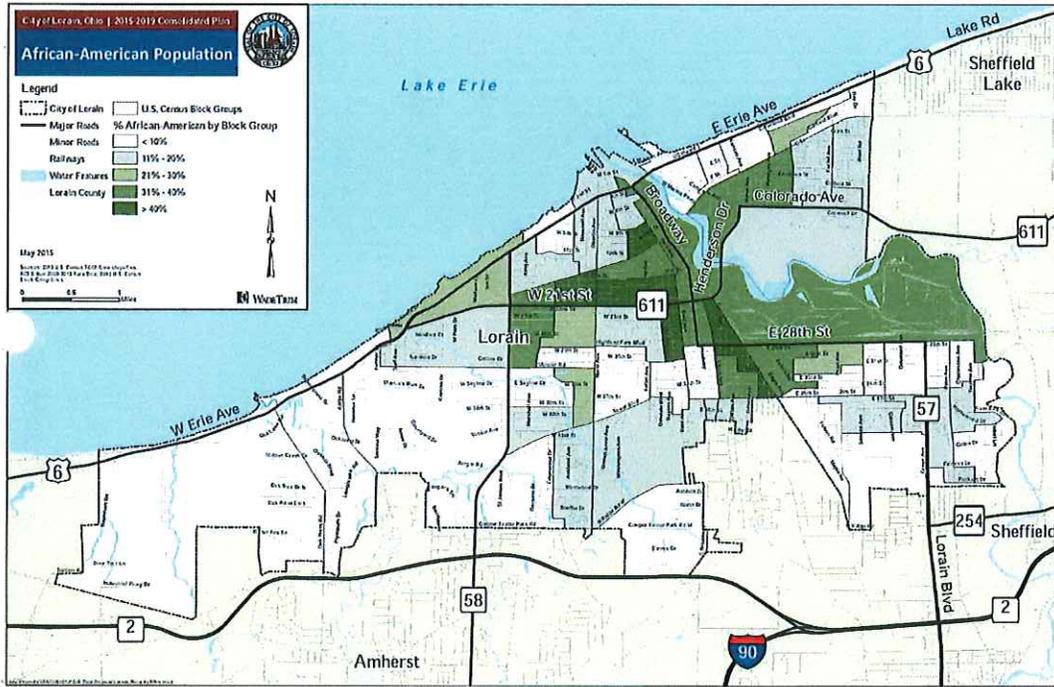
IV. FAIR HOUSING Current and Emerging Problems

A. Transportation

Transportation is important in relation to housing choice since it often influences where people can or cannot live. Additionally, the availability of varied transportation routes and options is essential to furthering fair housing within a jurisdiction. The issue at hand regarding the connection between transportation and fair housing choice focuses on the ease with which residents that live in lower-income or minority-concentrated areas can travel back and forth between work and home, and the availability of different transportation options that citizens of these neighborhoods may have to travel to other areas of the City of Lorain, or other areas in general, as needed. When transportation routes do not connect concentrated areas of lower-income or minority households to commercial areas, then a majority of lower-income or minority residents are limited to where they may shop for goods or services, attend school, or where they can seek employment.

The availability of public transportation plays a vital role in increasing access to the supply of affordable housing to groups in need and others protected by Fair Housing laws. When residents have access to an effective public transportation system, they are able to easily travel between home and work or other destinations without having to add personal vehicle expenses to their household budget, which is a particularly advantage to low- and moderate income households.

Currently, the Lorain County Transit provides public transportation services to the City of Lorain. However, there are only two routes in the City as illustrated below. The two available routes are very limited, making them inaccessible and not a reliable source of transportation, for many residents in need of public transportation. Moreover, the current routes are extremely limited in relation to the City's low-income and minority-concentrated areas as the map below shows.



According to the most recent American Community Survey, the mean travel time for people in the City of Lorain is 23.5 minutes.⁴⁴ Moreover, out of the 24,547 workers 16 years of age or over 23,266 (95%) drove alone or carpooled as of the latest Survey. Therefore, in the City of Lorain the vast majority of residents seem to require a car for work and most purposes.

Limited availability of public transportation severely affects low- and moderate-income people since they typically cannot afford to purchase and maintain a vehicle.⁴⁵ In addition to low- and moderate-income people, another group that tends to lack access to cars is people with disabilities. People with disabilities consistently indicate that lack of transportation is a major barrier to accomplishing tasks necessary to daily life.⁴⁶

Moreover, according to WalkScore.com the City of Lorain is a “Car-Dependent City” with a Walk Score of 36 out of 100.⁴⁷ Walkscore.com is a website that allocates a walk score number to cities. This score is determined upon an analysis of how pedestrian-friendly an area is based on the proximity of many important amenities. For the City of Lorain the Downtown area is the most walk able area with a walk score of 39. In comparison, looking at a City with a robust public transportation system, the City of Cleveland has a walk able score of 59. Cleveland’s downtown area has a walk able score of 90 and Ohio City, one of its small neighborhoods, has a walk score of 78.

The low walkability score of the City of Lorain, along with the limited availability of public transportation, and current use of a car, indicates that low- and moderate-income residents, many of which are from minority populations, the disabled, and the elderly⁴⁸, could benefit from expanded public transportation availability.

⁴⁴ U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates.

⁴⁵ The Brookings Institute reports that nationally 27 percent of households with annual incomes below \$20,000 do not own a car. See Margy Waller, “High Cost or High Opportunity Cost? Transportation and Family Economic Success,” Brookings Institute, December 2005, 1, <http://www.brookings.edu/es/research/projects/wrb/publications/pb/pb35.pdf>.

⁴⁶ In a 2004 national poll a third of people with disabilities polled indicated access to transportation was an issue for them. See Institute of Medicine (US) Committee on Disability in America; Marilyn J. Field and Alan M. Jette, eds., *The Future of Disability in America*, Section G: Transportation Patterns and Problems of People with Disabilities, 1, (Washington, D.C.: National Academies Press (US), 2007), available from <http://www.ncbi.nlm.nih.gov/books/NBK11420/>.

⁴⁷ Walk Score, “Living in Lorain,” [walkscore.com](https://www.walkscore.com/OH/Lorain). Retrieved from: <https://www.walkscore.com/OH/Lorain>

⁴⁸ The American Association for Retired Persons estimates that 20% of people over 65 do not drive and that this number will increase as the size of this demographic increases. Sally Abrahms, *Improving Transportation Services*

B. Limited English Proficiency

Language diversity and rights has been a prevalent theme throughout the history of the United States of America. Moreover, language access rights have been asserted by courts and through legislation since the beginning of this Country. In 1780, during colonial times, an English language law attempted to create an official academy to “purify, develop, and dictate usage of” English-only in reaction to the diversity of language among the population.⁴⁹ At the time, Congress ultimately refused to pass the law due to possible infringement upon private Citizens’ individual Constitutional rights and liberties. Additionally, in 1923 the Supreme Court held in *Meyer v. Nebraska* that language restrictions in education settings violated the Due Process Clause of the 14th Amendment.⁵⁰ In *Meyer*, a teacher had been charged with violating a Nebraska law restricting non-English languages as a medium of study by allowing a student to read the Bible in German.⁵¹ The Supreme Court recognized Nebraska’s desire for all of its citizens to speak English, but held that “this cannot be coerced by methods which conflict with the Constitution.”⁵² Ultimately, the Supreme Court affirmed that “[t]he protection of the Constitution extends to all, to those who speak other languages as well as to those born with English on the tongue.”⁵³

Jurisdictions, such as the City of Lorain, have the responsibility of overcoming Limited English Proficiency (LEP). Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin. In *Lau v. Nichols*, U.S. 563 (1974) the Supreme Court interpreted Title VI’s prohibition on discrimination on the basis of national origin, as prohibiting conduct that has a disproportionate effect on Limited English Proficiency individuals. The Court determined that a person’s language is so closely intertwined with his or her national origin, that language-based discrimination is effectively a proxy for national origin discrimination. Agencies and jurisdictions receiving federal funding who fail “to take affirmative steps to provide ‘meaningful opportunity’ for limited English proficient individuals to participate in its programs and activities

for Seniors, AARP, <http://www.aarp.org/home-family/getting-around/info-04-2013/senior-independent-living-public-transportation.html>.

⁴⁹ Aka, P.C., Deason, L.M., “Culturally Competent Public Services and English-Only Laws,” 53 *How. L.J.* 53, 73 (2009).

⁵⁰ 262 US 390 (1923)

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

violates the recipient's obligations under Title VI and its regulations."⁵⁴ The requirement to provide meaningful access to LEP people is the result of both HUD guidance on this issue and the duty of all recipients of federal financial assistance to affirmatively further fair housing.

People with Limited English Proficiency may have difficulty accessing a fair housing choice. For that reason, Executive Order 13166 (E.O. 13166) was issued in 2000 which requires recipients of federal funding to "take reasonable steps to ensure meaningful access to their programs and activities, by LEP persons." E.O. 13166 sets out the obligations of federal agencies and recipients of federal financial assistance, under Title VI. Pursuant to E.O. 13166, and lays out some of the reasonable steps that must be taken in order to provide meaningful access to programs and services to LEP individuals.

In order to assist entities and jurisdictions receiving federal financial assistance, in determining how to provide meaningful access to programs and services to LEP individuals, particularly in terms of housing, HUD issued its "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons."⁵⁵ Through this guidance, HUD requires recipients of federal funds to analyze the needs of LEP individuals, develop a language access plan, and provide language assistance whenever necessary. Although, the guidance does not provide specific benchmarks or legal measures for compliance, it does require that recipients of federal funding provide meaningful access to LEP persons to critical services while not imposing undue burdens on small businesses, small local governments, or small nonprofits.

The City of Lorain, as illustrated previously, has a large non-English speaking population. Moreover, out of 18.3% of the population that speaks a language other than English at home 15.2% speak Spanish at home. Because the overwhelming majority of non-English speakers in the City of Lorain speak Spanish there is a clear need for a language access plan to be developed and implemented for Spanish-speakers.

As stated previously, a person's language is so closely intertwined with his or her national origin, that language-based discrimination is effectively a proxy for national origin discrimination. The requirement to provide meaningful access to LEP people is the

⁵⁴ DOH Policy Guidance on the Enforcement of Title VI of the Civil Rights Act of 1964 – National Origin Discrimination Against Persons with Limited English Proficiency, 65 Fed. Reg. 50124 (Aug. 16, 2000).

⁵⁵ 72 Fed. Reg. 2732 (January 22, 2007).

result of both HUD guidance on this issue and the duty all recipients of federal financial assistance have to Affirmatively Further Fair Housing. Therefore, to ensure that people with LEP have equal access to fair housing choices and opportunities, the City of Lorain must make language access a priority.

C. Zoning and Planning

Rules and Regulations

Rules and regulations regarding zoning and planning directly and indirectly shapes the character, composition, and quality of life within jurisdictions. Unfortunately, historically in this Country, decisions of legislative bodies and zoning regulations have often been used to promote housing segregation and discriminatory patterns.

Zoning is the process by which a municipality legally controls the use that may be made of land or property and the physical configuration of developments upon the tracks of land within the municipality. Zoning ordinances are adopted to divide the land into different districts, and to permit only certain uses within each zoning district. These districts frequently divide the municipality into four major areas: residential, commercial, industrial, and special. There might also be variations in permitted use, within each district. Additionally, the architectural design of buildings and the particular uses to which buildings within designated districts may be placed is also control by zoning ordinances.

Planning, generally, refers to the future physical development and overall programs for the total or a particular area within the jurisdiction. Therefore, planning may involve the consideration of all public improvements and services within an area. Since planning only involves proposals for future action it does not, generally, impose an immediate impermissible restriction. Finally, although the terms planning and zoning are not interchangeable, planning embraces zoning. For that reason, planning and zoning go hand and hand and a review of zoning regulations is important as it affects and influences the City of Lorain's planning process.

Sources of Zoning Regulatory Power

Zoning is considered a matter of local concern and prerogative. Essentially, municipal agencies, boards, and commissions regulate local land use, subject to limitations set by the state legislation, and courts findings.

The derived zoning power of local jurisdictions, such as the City of Lorain, comes from the right of states to make laws governing safety, health, welfare, and morals as interpreted from the Tenth Amendment of the United States Constitution. This Amendment states, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the States respectively, or to the people."

The local government has a lot of leverage on this area. As an example, practices such as "exclusionary zoning," which is known as the manipulation of land use by a local government to prevent households that are deem undesirable from setting up residence in the locality, have been recognized and continue to be in place. In fact, the courts have been reluctant to invalidate zoning regulations alleged to be exclusionary in effect. In *Euclid v. Ambler*, the Supreme Court ruled that the state, and as delegated police power to local municipalities could regulate land development through zoning ordinances in order to promote the general public interest. Therefore, when reviewing zoning regulations is important to be mindful that zoning ordinances should be enacted for the protection of public safety, welfare, health, and morals, reflecting proper use and exercise of local police power and not for impermissible or discriminatory purposes.

A review of zoning ordinances, as done by this Analysis is important because it could prevent potential problem for jurisdictions as related to fair housing laws. Although the federal Fair Housing Act "... does not preempt local zoning law, the Act applies to municipalities and other local government entities and prohibits them from making zoning or land use decisions or implementing land use policies that exclude or otherwise discriminate against persons, including individuals with disabilities."⁵⁶

⁵⁶ Joint Statement of the Department of Justice and the Department of Housing and Urban Development, "Group Homes, Local Land Use, and the Fair Housing Act," page 1 (August 18, 1999).

Under the Fair Housing Act it is unlawful:

- To utilize land use policies or actions that treat groups of persons with disabilities less favorably than groups of non-disabled person. An example would be an ordinance prohibiting housing for persons with disabilities or a specific type of disability, such as mental illness, from locating in a particular area, while allowing other groups of un-related individuals to live together in that area.
- To take action against, or deny a permit, for a home because of the disability of individuals who live or would live there. An example would be denying a building permit for a home it was intended to provide housing for persons with mental retardation.
- To refuse to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.

It is important to mention that what constitutes a reasonable accommodation is a case-by-case determination. Not all requested modifications of rules or policies are reasonable. If a requested modification imposes an undue financial or administrative burden on a local government, or if a modification creates a fundamental alternation in a local government's land use and zoning scheme, it is not a "reasonable" accommodation.

HUD, Department of Justice, Private Litigation and Zoning Matters⁵⁷

HUD has the power to receive and investigate complaints of discrimination, including complaints alleging local government discrimination in terms of the use of zoning powers. However, in matters involving zoning and land use, HUD does not issue a charge of discrimination. Instead, HUD refers matters it believes may be meritorious to the Department of Justice, which, in its discretion, may decide to bring suit against the respondent in such a case. The Department of Justice may also bring suit in a case that has not been the subject of a HUD complaint, or a close investigation by HUD, by exercising its independent power to initiate litigation alleging a “pattern or practice” of discrimination or a denial of rights to a group of persons which raises an issue of general public importance. Additionally, a decision by HUD or Department of Justice not to proceed with a zoning or land use alleged matter alleged violation does not foreclose private plaintiffs from pursuing a claim through litigation.

Zoning and Protected Classes

The Amendments to the federal Fair Housing Act of 1988, added two new protected classes, *familial status* and disability.

The 1988 Amendments actually codified the right of people with disabilities to enjoy their freedom of choice in terms of where they live by making their confinement to commercial and industrial districts illegal. Additionally, since some people with disabilities often to live in “group homes” a differential treatment of groups of unrelated people with disabilities living together under zoning regulations could violate fair housing laws protecting *familial status*.

Familial status laws at the federal, state, and local level are designed to prohibit discrimination in various ways in terms of zoning regulations. Families with children are protected as a class under *familial status*. Moreover, jurisdictions that define “family” in a restrictive way, focusing on relationships based on blood and marriage, may violate fair housing laws as well as constitutional rights to freedom of association, equal protection, and due process rights. Generally, restrictive definitions of “family” can have

⁵⁷ Id.

a disparate impact based on race as well since African Americans and Hispanics are more likely to live with people they are not relate to.⁵⁸ Moreover, restrictive definitions of “family” with no provisions for group homes or that only allows for group homes as a conditional use in a zoning district, may limit housing choice for people with disabilities in violation of Fair Housing laws.

Zoning Barriers to Affordable Housing

Zoning regulations can affect the cost of developing housing, making it harder or easier to accommodate affordable housing.⁵⁹ Affordable housing in a diversity of locations, allows for the integration of communities.

Zoning regulations that bar or make the development of affordable housing more difficult or expensive have the potential of disproportionately negatively impacting members of protected classes.⁶⁰ Unfortunately, this effect is due to the fact that minorities in this Country are disproportionately low-income.

Impediments to affordable housing can result from a variety of land use regulations and rules, and some of the most frequently cited are:⁶¹

* **Restrictions in Zoning Ordinance on Multifamily or Affordable Housing.** If affordable or multifamily family housing is either not permitted in a municipality or restricted to a handful of already densely developed zones, developers need to obtain a “Special Permit” in order to build new affordable housing and such permits are often denied.

* **Large Lot Requirements.** Zoning ordinances usually prescribe the size of lots for different zones. The larger the lot the more expensive the development. When large minimum lot requirements apply to the entire municipality, the result can be that affordable housing becomes financially infeasible.

⁵⁸ See, Rose M. Kreider and Diana B. Elliott, U.S. Census Bureau, “The Complex Living Arrangements of Children and Their Unmarried Parents,” Issued May 2009, p.4. Retrieved from <http://www.census.gov/population/www/socdemo/complex-abstact.pdf>.

⁵⁹ De Souza Griggs, X., ed., (2005) “The Geography of Opportunity: Race and Housing Choice in Metropolitan America,” Brookings Institute Press.

⁶⁰ Linowes, R., Allensworth, D.T., (1973) “The Politics of Land Use: Planning, Zoning, and the Private Developer,” New York: Praeger.

⁶¹ Knaap, G., Meck, S., Moore, T., and Parker, R., (2007, July) “Zoning as a Barrier to Multifamily Housing Development,” American Planning Association, Planning Advisory Service Report Number 548.

* **Low Density Requirements.** Ordinances can limit the number of units permitted per acre. If this number is set low in all areas of the municipality, for example no more than one or two units per acre, affordable housing throughout the municipality becomes financially infeasible.

* **Other Land Use Requirements.** A range of other requirements can also inhibit the development of affordable housing. These include residency or employment preferences for affordable housing admission, onerous subdivision requirements, such as obligations for numerous parking spaces, sewer restrictions, and wetland limitations.

City of Lorain Planning and Zoning Code

Currently, the [Codified Ordinances of the City of Lorain – Part II – Planning and Zoning Code – April 1984](#) is the document that contains the City’s zoning regulations. Since the ordinance was enacted in 1984, it is important to mention that it predates the 1988 Fair Housing Amendments Act. Therefore, the City’s current planning and zoning code is currently outdated and does not conform to the federal Fair Housing Act as Amended in 1988. Below is a review of some of the key items.

FAMILY

Per Section 1221.20 of the Code, “family” is defined as follows:

1221.20 FAMILY

“Family” means one or more persons occupying the premises and living as a single housekeeping unit. (Ord. 186-85. Passed 12-16-85.)

The City’s definition of “Family” is very inclusive since it does not impose limits, such as blood or marriage relations. Restrictive definitions of “Family” segregate group home residency in fewer desirable commercial or mixed-use districts. The term “group home” refers to housing occupied by groups of unrelated individuals with disabilities.⁶² However, the term “group homes” is within the

⁶² (memo dep. Justice)

definition of “Residential Social Service Facility” an issue that needs to be evaluated.

In isolation, the City’s definition of “Family” appears to allow for group home living arrangements within all Districts that permit single “family” dwellings. However, this is not the case since “group homes” are included within the definition of “Residential Social Service Facility” (section 1221.43).

1221.43 RESIDENTIAL SOCIAL SERVICE FACILITY.

“Residential social service facility” means a facility or home which provides resident services to a group or individuals of whom one or more are unrelated, and which may provide additional supervised programming services. Groups served may include the mentally retarded or handicapped, juvenile offenders, drug or alcohol offenders, releases from state institutions, or wards of the court or welfare system. The category includes, but is not limited to, facilities licensed, supervised, or sponsored by any political subdivision or judicial authority. The category includes, but is not limited to, facilities commonly referred to as “halfway houses” or “group homes”.

The definition of “group homes” within “Residential Social Services Facility” is in violation of Fair Housing laws. Although the definition used for “family” appears being open and allowing for even “group homes” placement in all single family districts the relegation of group homes to “Residential Social Service Facility” areas, in effect limit the placement of “group homes” to only District R-3, or only any other with permission from the Board (1131.01).

V. Impediments to Fair Housing

The following impediments to fair housing in the City of Lorain were identified through this Analysis of Impediments:

1. Lack of access to public transportation.

Meaningful steps should be taken in order to improve the availability of public transportation. Currently, the areas severely affected are those with a low and moderate-income population in addition to a disabled population. The current type, frequency and reliability of public transportation lacks adequacy and should be improved. Additionally, new and alternative ways should be created in order to increase access to employment, financial services, and food among others.

2. Language access barrier for people with Limited English Proficiency.

The City should implement a Language Access Plan in order to address language access barriers. With a Hispanic population of over 26% and 15.2% of the population speaking Spanish at home, access to Spanish speakers should be a priority. A Language Access Plan should concentrate in the availability of information and general access to Spanish speakers to all resources.

3. Outdated Planning and Zoning Code.

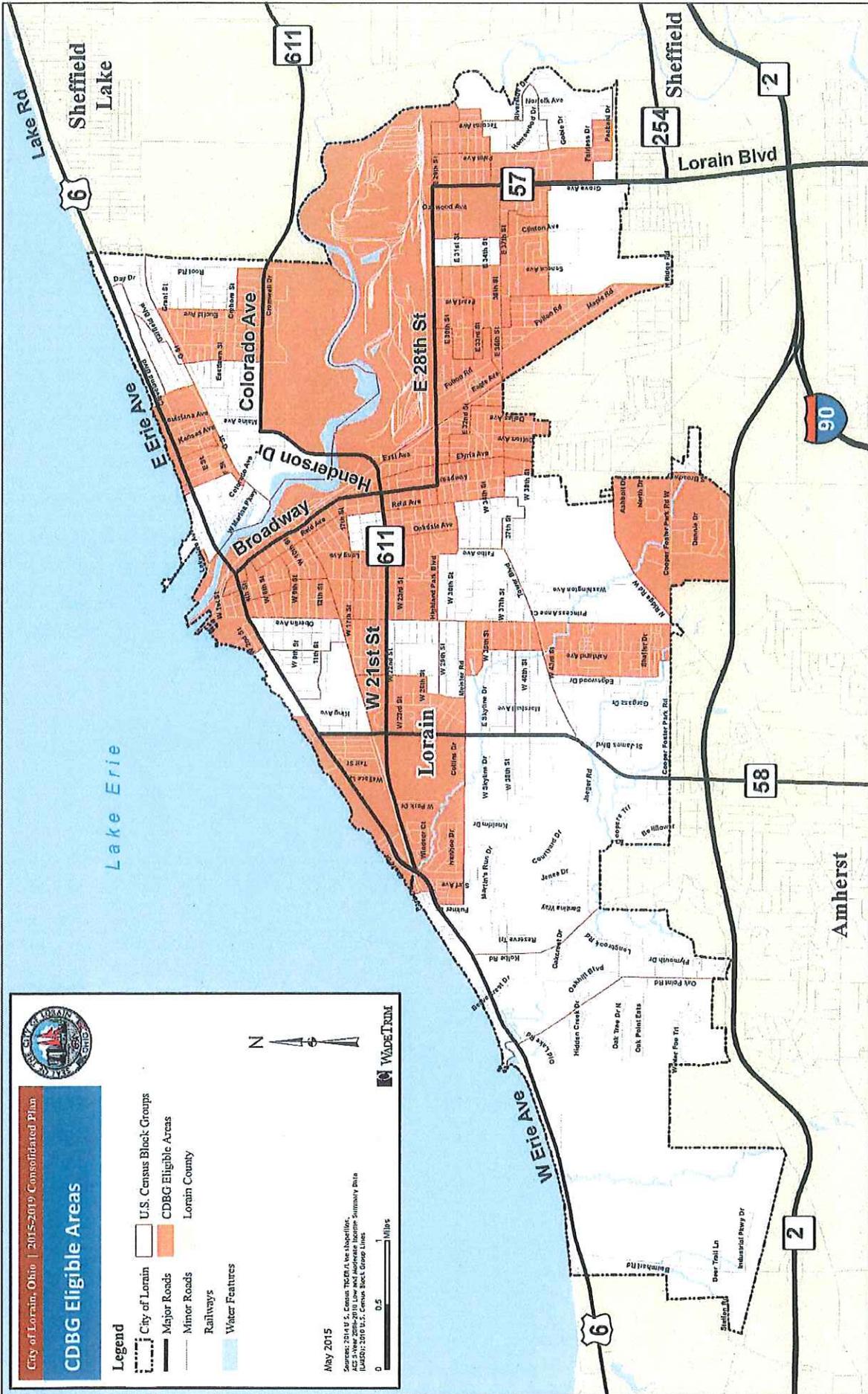
The City of Lorain's Planning and Zoning Code was adopted in 1984, which predates the 1988 Fair Housing Act Amendments. The current planning and zoning code does not conform to the federal Fair Housing Act. A complete review and updates as necessary are needed in order to meet compliance requirements.

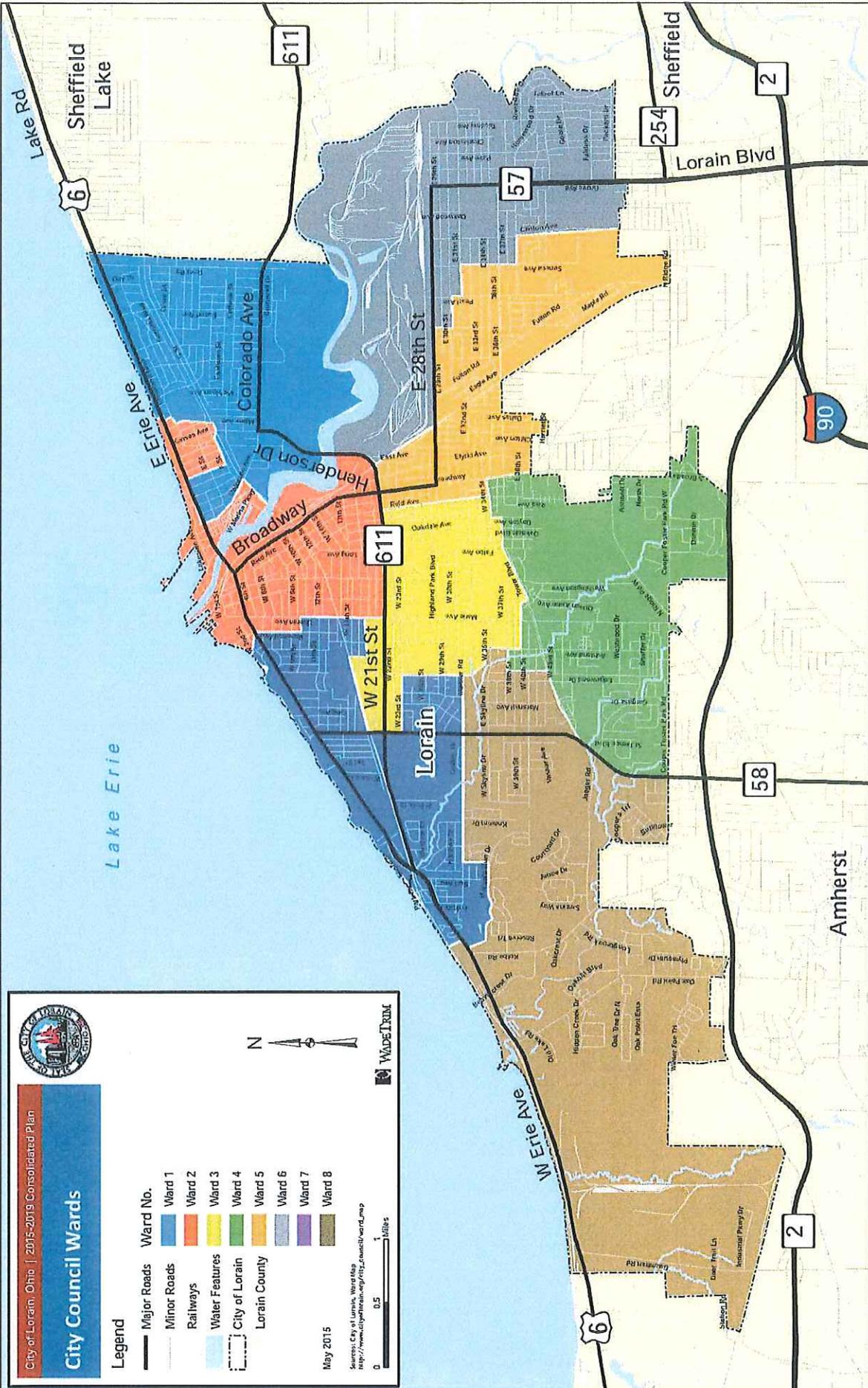
4. Lack of Fair Housing Data.

The City of Lorain has a large minority population. Some neighborhoods have a larger concentration of different minority populations than others. Although some of the residents in these neighborhoods feel a strong sense of community the City needs data in order to determine if any discriminatory practices are present within the City. The implementation of a Testers Program will be ideal in identifying potential discriminatory practices.

5. Lack of Fair Housing Awareness.

Efforts to spread awareness regarding federal, state and local Fair Housing laws should continue.





City of Lorain, Ohio | 2015-2019 Consolidated Plan
City Council Wards

Legend

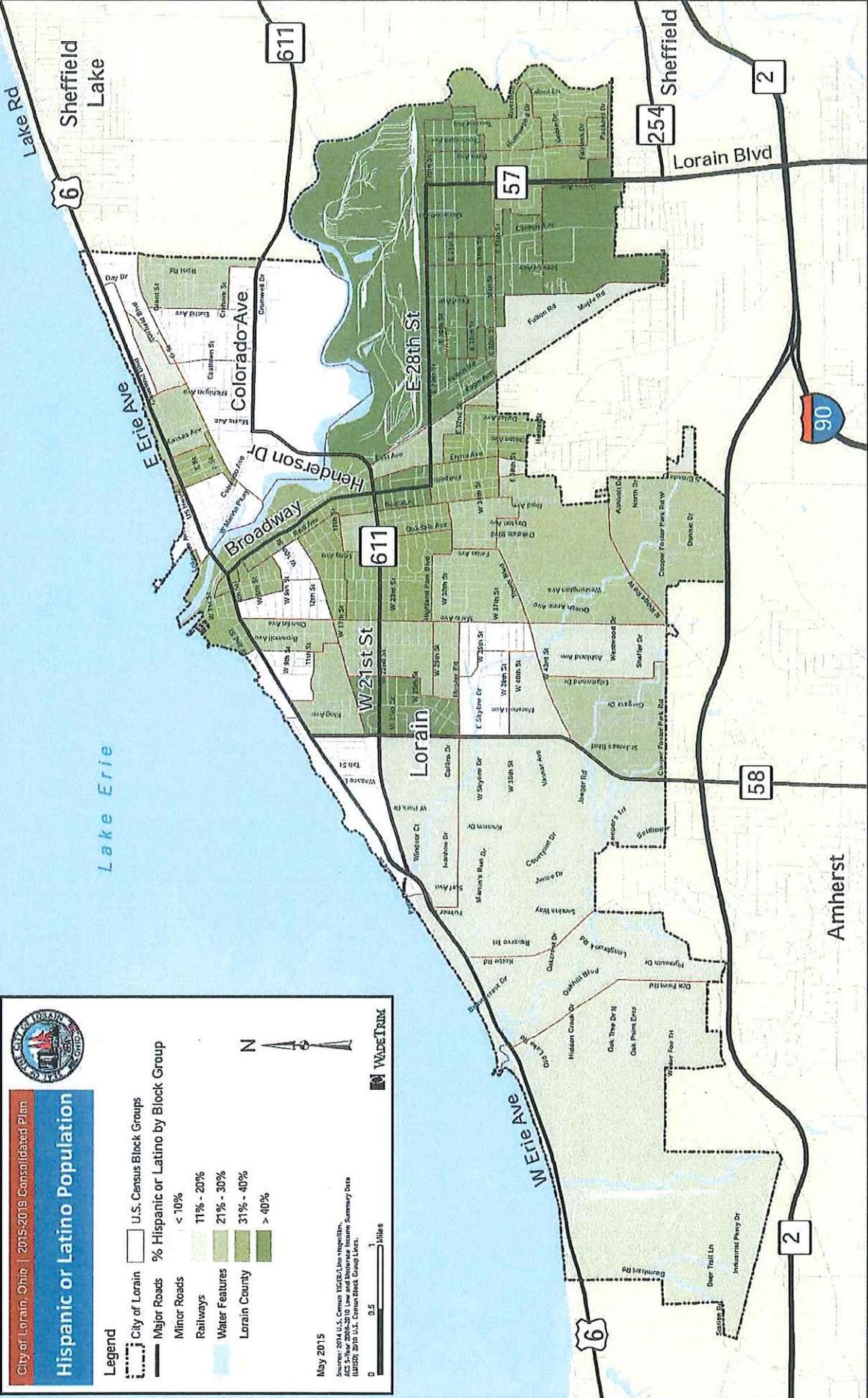
- Major Roads
 - Minor Roads
 - Railways
 - Water Features
 - City of Lorain
 - Lorain County
- | Ward No. | Color |
|----------|-------------|
| Ward 1 | Blue |
| Ward 2 | Orange |
| Ward 3 | Yellow |
| Ward 4 | Green |
| Ward 5 | Light Blue |
| Ward 6 | Purple |
| Ward 7 | Light Green |
| Ward 8 | Brown |

May 2015

Source: City of Lorain, WardMap
http://www.ci.lorain.oh.us/arcgis/arcswt/ward_map

0 0.5 1 Miles





City of Lorain, Ohio | 2015-2019 Consolidated Plan

Hispanic or Latino Population



- Legend**
- City of Lorain
 - U.S. Census Block Groups
 - Major Roads
 - Minor Roads
 - Railways
 - Water Features
 - Lorain County
- % Hispanic or Latino by Block Group**
- < 10%
 - 11% - 20%
 - 21% - 30%
 - 31% - 40%
 - > 40%
- May 2015
- Source: 2014 U.S. Census TRISTE Line the Hub (Lorain) 2010 U.S. Census Block Group Lines.
- 0 0.5 1 Miles
- WADE TRIM

Map data provided by Esri, DeLorme, Garmin, IGN, Intermap, iPC, NITEL, Aerotriangulation, Swisstopo, GEBCO, CNES/Airbus DS, USDA, AeroGRID, IGN, Esri, Swisstopo



City of Lorain, Ohio | 2015-2019 Consolidated Plan

African-American Population

Legend

- City of Lorain
- U.S. Census Block Groups
- Major Roads
- Minor Roads
- Railways
- Water Features
- Lorain County

% African-American by Block Group

- < 10%
- 11% - 20%
- 21% - 30%
- 31% - 40%
- > 40%

May 2015

Source: 2013 U.S. Census TIGER-Line Shapefiles, 2013 Census Tract Data, 2013 U.S. Census Block Group Data.

0 0.5 1 Miles

WALDETRINK



Map data provided by Esri, DeLorme, Garmin, and other sources. All rights reserved.

City Council Wards

Legend

- Major Roads
 - Minor Roads
 - Railways
 - Water Features
 - City of Lorain
 - Lorain County
- | Name | Color |
|--------|--------|
| Ward 1 | Blue |
| Ward 2 | Red |
| Ward 3 | Yellow |
| Ward 4 | Green |
| Ward 5 | Orange |
| Ward 6 | Grey |
| Ward 7 | Purple |
| Ward 8 | Brown |

May 2015

Sources: City of Lorain, Ward Map
http://www.cityoflorain.org/city_council/ward_map

0 0.5 1 Miles

