

Amendment to the General Ordinances of the Town of Randolph
To Prohibit the Use of Algorithmic Rent Setting Devices

The Randolph Town Council hereby amends the General Ordinances of the Town of Randolph to prohibit the use of algorithmic rent setting devices, as follows:

I. Add the following new section 185-2 to the General Ordinances of the Town of Randolph:

§ 185-2 Prohibition of algorithmic rent setting devices.

(1) **Purpose.** In recent years, several software programs, often referred to as “algorithmic devices,” have threatened to destabilize rental housing markets in municipalities across the United States. More and more landlords in large U.S. cities are now pooling their data and pricing decisions using such software. The use of this software has contributed to double-digit rent increases, higher vacancy rates, and higher rates of eviction. It has distorted markets to the extent that rents and vacancy rates have increased simultaneously. The software permits landlords to coordinate and to collude about pricing. The software also hinders the efforts of consumers to engage in price comparisons or price negotiations. This ordinance prohibits the use of algorithmic devices for the purpose of setting rents on residential dwelling units in Randolph, Massachusetts, to bring immediate relief to tenants and ensure that landlords are adhering to fair standards for setting rental rates.

(2) **Definitions.** As used herein, the following terms shall have the following meanings:

“Algorithmic device” shall mean a product or service involving a system, software, or process using computation that: uses one or more algorithms to perform calculations; uses data concerning historical or contemporaneous prices, price changes, supply levels, occupancy rates, or lease or rental contract termination and renewal dates from:

- a. two or more real estate lessors;
- b. public databases; or
- c. a combination of public databases, or two or more real estate lessors;

that recommends rental prices, fees, rental terms, or occupancy levels to a landlord.

"Algorithmic device" includes a product that incorporates an algorithmic device, but does not include (1) a report that publishes periodically, but not more frequently than monthly, existing rental data in an aggregated and anonymous manner but does not recommend

rent prices, fees, or occupancy rates or other rental contract terms for future leases; or (2) a product used for the purpose of establishing rent or income limits in accordance with the affordable housing program guidelines of a local government, the state, the federal government, or other political subdivision, or a non-profit entity working on behalf of a government entity.

“Price coordination” shall mean engaging in both of the following acts: (1) collecting historical or contemporaneous non-public competitor information concerning prices, price changes, supply levels, occupancy rates, or lease or rental contract termination and renewal dates of residential rental units from two or more real estate lessors, whether or not monetary or other valuable consideration is paid to acquire or collect such information, or information concerning such matters from a public database; and (2) recommending or suggesting rental prices, fees, rental terms, or occupancy levels to a real estate lessor based on such information when such recommendation involves the analysis or processing of such information using an algorithmic device.

“Price coordination” does not include (1) providing information for the purpose of establishing rent or income limits in accordance with the affordable housing program guidelines of a governmental entity; or (2) generation or use of any report, study, or presentation that provides existing rental data in an aggregated manner but does not recommend rent prices, fees, or occupancy rates or other rental contract terms for future leases; or (3) providing or using information for the purpose of conducting market research for project financing, for the purpose of conducting an appraisal, or for conducting research, testing, and training for software development.

“Real estate lessor” shall mean any entity, individual, corporation, partnership, association, joint-stock company, trust, or unincorporated organization that owns or manages real property, or any agent thereof who leases or rents such property or any portion of such property as a residential unit.

(3) Prohibited conduct.

- a. No real estate lessor in Randolph shall engage in price coordination for residential rental units in Randolph, including through the sale, licensure, or provision of any service or product that involves price coordination of residential units.
- b. No real estate lessor in Randolph shall enter an agreement with any other person to not compete with respect to rental pricing, fees, or any other rental term for residential rental units in Randolph.
- c. No real estate lessor shall use, subscribe to, or contract or pay for, the services of another person if such services involve price coordination or otherwise encourage or facilitate an agreement with other persons to not compete with respect to any rental term for residential units in Randolph.

- d. No real estate lessor shall use, subscribe to, contract or pay for, or otherwise provide anything of value for use of, any algorithmic device that provides data, information, analysis or recommendations with respect to rental pricing, fees, or any other rental term regarding any residential rental property in Randolph.

(4) Enforcement.

This Ordinance section 185-2 may be enforced by the Police Chief, by the Board of Health, by the Planning Director or by any of their designees.

(5) Penalty.

The penalty for violation of this ordinance shall be in accordance with the fine schedule and shall be in compliance with the provisions of M.G.L. c. 40, § 21D. Each day such violation is committed or permitted to continue shall constitute a separate offense, and shall be punishable as such hereunder. Any fine or penalty imposed by this section and not paid shall become a municipal charge under the lien created by M.G.L. c. 40, § 58.

In addition, the Police Department shall work collaboratively with the District Attorney’s Office and/or the Massachusetts Attorney General’s Office to share information about violations of this section of the Ordinances in order to aid the appropriate prosecution of these matters under any applicable Massachusetts consumer protection law.

II. Amend Section 301-1 of the General Ordinances of the Town of Randolph, concerning “Fines”, to delete the portion regarding General Ordinance Chapter 185 and replace that portion with the following:

| Chapter/Section | Title | Fine Amount |
|-------------------------------------|---------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| Chapter 185, Quality of Life | | |
| § 185-1H | Violation of any provision of Section 185-1 | Minimum of \$500 and maximum of \$1,000 per violation; each day after notification shall be considered a separate offense |
| § 185-2 | Violation of any provision of Section 185-2 | \$300 per offense per day |