

ORDINANCE 052404

FAIR HOUSING ORDINANCE

DECLARATION OF POLICY

It is hereby declared to be the policy of the city to bring about through fair, orderly and lawful procedures, the opportunity of each person to obtain housing without regard to race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.

It is further declared that such a policy is established upon a recognition of the inalienable rights of each individual to obtain housing without regard to race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, age; and further that the denial of such rights through considerations based on race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age is detrimental to the health, safety and welfare of the inhabitants of the city and constitutes an unjust denial or deprivation of such inalienable rights which is within the power and the proper responsibility of government to prevent.

DEFINITIONS

As used in this ordinance the following words and phrases shall have the meanings respectively ascribed to them in this section unless the context requires otherwise:

Age means the calendar age of an individual eighteen (18) years of age or over.

Creed means any set of principles, rules, opinions, and precepts formally expressed and seriously adhered to or maintained by a person.

Director means the director of the human relations department or authorized assistant.

Discriminatory housing practice means an act which is unlawful under this ordinance.

Dwelling means any building, structure or portion thereof which is occupied as, or designed and intended for occupancy as, a residence by one or more persons and any vacant land which is offered for sale or lease for the construction or location thereof of any such building, structure or portion thereof.

Family means a single individual or a group of individuals living together under one common roof.

Major life activities means functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Marital status means an individual's status as single, married, divorced, widowed or separated person.

Parenthood means a person's status as a parent or legal guardian of a child or children under the age of eighteen (18).

Person means one or more individuals, corporations, partnerships, associates, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

Physical or mental handicap means any physical or mental impairment which substantially limits one or more major life activities.

Physical or mental impairment shall include:

- 1) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems; neurological; musculoskeletal; special sense organs; respiratory including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
- 2) Any mental or psychological disorder, such as mental retardation; organic brain syndrome, emotional or mental illness, and specific learning disabilities.

To rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Senior adult means a person fifty-five (55) years of age or older.

INTERPRETATION AND EFFECT

This ordinance shall in no way be interpreted as creating a judicial right or remedy which is the same or substantially equivalent to the remedies provided under Title VIII of the Civil Rights Act of 1968, as amended or the Federal Equal Credit Opportunity Act (15 U.S.C. 1891). All aggrieved parties shall retain the rights granted to them to Title VIII of the Civil Rights Act of 1968, as amended and the Federal Equal Credit Opportunity Act. In construing this ordinance, it is the intent of the city council that the courts shall be guided by federal Court Interpretations of Title VIII of the Civil Rights Act of 1968, as amended, and the Federal Equal Credit Opportunity Act, where appropriate.

DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

Except as exempted by it shall be unlawful:

- 1) To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.

- 2) To discriminate against any person in the terms, conditions, or privileges of a sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.
- 3) To make, print or publish or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference limitation of discrimination based on race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or an intention to make any such preference, limitation or discrimination.
- 4) To represent to any person because of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
- 5) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.

DISCRIMINATION IN HOUSING FINANCING

It shall be unlawful for any bank, building and loan association, insurance company, or other person whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of the race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age of such person or such persons associated therewith or because of the race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made or given.

DISCRIMINATION IN PROVIDING BROKERAGE SERVICE

It shall be unlawful for any person to deny another person access to membership in, or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling and renting dwellings or to discriminate against another person in the terms or conditions of such access, membership or participation, on account of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.

UNLAWFUL INTIMIDATION

It shall be unlawful for any person to harass, threaten, harm, damage, or otherwise penalize any individual, group, or business because such individual, group, or business has complied with the provisions of this ordinance or has exercised in good faith rights under this ordinance, or has enjoyed the benefits of this ordinance, or because such individual, group, or business has made a charge in good faith, testified in good faith or assisted in good faith in any manner in any investigation, or in any proceeding hereunder or has made any report to the director.

EXEMPTIONS AND EXCLUSIONS

- (a) Nothing in this ordinance shall apply to:
- (1) Any single-family house sold or rented by an owner, provided that:
 - a. Such private individual owner does not own more than three (3) single-family houses at any one time; and,
 - b. If the owner does not reside in the house at the time of the sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period; and,
 - c. Such bona fide private individual owner does not own any interest in, nor is there owned or reserved on such person's behalf, under any express voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time; and,
 - d. The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and,
 - e. The sale or rental is made without the publication, posting or mailing of any advertisement or written notice in violation of this ordinance; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.
 - (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- (b) For the purpose of subsection (a), a person shall be deemed to be in the business of selling or renting dwellings if:

- (1) He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or,
 - (2) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or,
 - (3) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.
- (c) Nothing in this ordinance shall prohibit a religious organization, association or society or a nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to person of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, physical or mental handicap, marital status, parenthood, or age.
- (d) Nothing in this ordinance shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members, or from giving preference to its members.
- (e) Nothing in this ordinance shall bar any person from owning and operating a housing accommodation in which rooms are leased, subleased or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.
- (f) Nothing in this ordinance shall prohibit the sale, rental, lease or occupancy of any dwelling designed and operated exclusively for senior adults and their spouses, unless the sale, rental, lease or occupancy is further restricted on account of race, color, creed, religion, sex, national origin, physical or mental handicap and marital status.
- (g) Nothing in this ordinance shall bar a person who owns, operates or controls rental dwellings whether located on the same property or on one or more contiguous parcels of property, from reserving any grouping of dwellings for the rental or lease to tenants with a minor child or children; provided however, in the event that said reserved area is completely leased or rented, the person owning, operating or controlling said rental dwelling may not refuse to rent or lease any other available dwelling to the prospective tenant on the basis of the tenant's status as parent or any other of the protected classifications set forth in this ordinance.

VIOLATIONS

No person shall violate any provision of this ordinance, or knowingly obstruct or prevent compliance with this ordinance.

ENFORCEMENT

Generally

The director of the human relations department shall have the responsibility of administering and implementing this ordinance. The director may delegate the authority to investigate and conciliate complaints to other designated city employees.

Complaints – Generally

- (a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereinafter referred to as the “charging party”) may file a complaint with the director. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The director shall prepare complaint forms and furnish them without charge to any person, upon request.
- (b) The director shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of Title VIII, Fair Housing Act of 1968, Public Law 90-284, and shall treat such complaints hereunder in the same manner as complaints filed pursuant to subsection (a) of this section.
- (c) All complaints shall be filed within one hundred eighty (180) days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the director shall provide notice of the complaint by furnishing a copy of such complaint to the person named therein (hereinafter referred to as the “respondent”) who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The respondent may file an answer to the complaint within fifteen (15) days of receipt of the written complaint.
- (d) All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.
- (e) If at any time the director shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed a discriminatory housing practice as to which no complaint has been filed or is about to be filed, the director may prepare and file a complaint upon his own motion and in his own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.

INVESTIGATION AND CONCILIATION

- (a) Upon the filing or referral of a complaint as herein provided, the director shall cause to be made a prompt and full investigation of the matter stated in the complaint; provided, however, that before any charge becomes accepted for investigative purposes, the director or an investigator shall have personally reviewed with the charging party the allegations contained therein and shall have determined that said charge comes within the provisions of this ordinance. In the event such review results in the determination that a particular charge does not come within the provisions of this ordinance, the charging part shall be given a clear and concise explanation of the reasons why it does not.
- (b) If the director determines that there is not probable cause to believe that a particular alleged discriminatory housing practice has been committed, the director shall take no further action with respect to that alleged offense.
- (c) During or after the investigation, but subsequent to the mailing of the notice of complaint, the director shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and to obtain adequate assurance of future voluntary compliance with provisions of this ordinance. Nothing said or done in the course of such informal endeavors may be made public by the director, the commission, the investigator, the conciliator, the charging party, or the respondent, or be used as evidence in a subsequent proceeding without the written consent of all persons concerned.
- (d) Upon completion of an investigation where the director has made a determination that a discriminatory housing practice has in fact occurred, if the director is unable to secure from the respondent an acceptable conciliation agreement, then the human relations commission of the city must, upon a majority vote, refer the case to the city attorney for prosecution in municipal court or to other agencies as appropriate. With such recommendation of the director and the referral of the human relations commission, the director shall refer his entire file to the city attorney. The city attorney shall, after such referral, make a determination as to whether to proceed with prosecution of such complaint in municipal court.

PENALTY

If a discrimination housing practice is found to have in fact occurred and the case has been referred to municipal court, the respondent shall be assessed a penalty of \$300.00 per violation.

EFFECTIVE DATE

This Ordinance shall be in force and effect from and after its passage on the date shown below.

OPEN MEETINGS

It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 511, Texas Government Code.

PASSED AND APPROVED on this the 24th day of MAY 2004.


Raymond Hart, Mayor

Attest:


Arthur Camacho Jr., City Secretary