

CHAPTER 92: FAIR HOUSING

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§ 92.01 POLICY.

It is the policy of the city to afford its citizens equal opportunity in the purchase and rental of a dwelling.

(Ord. 1,1995, passed 3-13-1995)

§ 92.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGGRIEVED PERSON. Includes any person who: claims to have been injured by a discriminatory housing practice; or believes that such person will be injured by a discriminatory housing practice that is about to occur.

COMMISSION. The Indiana Civil Rights Commission created pursuant to I.C. 22-9.5-4-1 et seq. (I.C. 22-9.5-2-3)

COMPLAINANT. A person, including the Commission, who files a complaint under I.C. 22-9.5-6. (I.C. 22-9.5-2-4)

DISABLED.

(1) With respect to a person:

(a) A physical or mental impairment which substantially limits one or more of such person's major life activities;

(b) A record of having such an impairment as described in division (1) above; or

(c) Being regarded as having such an impairment as described in division (1) above.

(2) Such term does not include current illegal use of, or addiction to, a controlled substance as defined in 21 U.S.C. § 802.

(3) Such term does not include an individual solely because that individual is a transvestite.

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 92.04 through 92.08 of this code or I.C. 22-9.5-5.

DWELLING. Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

FAMILIAL STATUS. One or more individuals (who have not attained the age of 18 years) being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other persons. The protections afforded against discrimination on the basis of ***FAMILIAL STATUS*** shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

FAMILY. Includes a single individual.

PERSON. Includes one or more individuals, corporations, limited liability companies, partnerships, associations, labor organization, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.

TO RENT. Includes to lease, to sublease, to let, or otherwise grant for a consideration the right to occupy the premises not owned by the occupant.
(Ord. 1,1995, passed 3-13-1995)

§ 92.03 UNLAWFUL PRACTICE.

(A) Subject to the provisions of division (B) below, § 92.08, and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in § 92.04 and in I.C. 22-9.5-5-1 shall apply to all dwellings except as exempted by division (B) below and I.C. 22-9.5-3.

(B) Other than the provisions of this division (B), nothing in § 92.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of such house prior to the sale, the exemption shall apply only to one such sale within any 24-month period. The private individual owner may not own any interest in, not have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be excepted from application of this section only if such house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent, salesperson, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person; and

(b) Without the publication, posting or mailing of a notice, a statement or an advertisement in violation of § 92.04(A)(3), but nothing in this division (B) shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer this title.

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(C) For the purposes of division (B) above, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) Is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.

(Ord. 1, 1995, passed 3-13-1995)

§ 92.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

(A) As made applicable by § 92.03 and except as exempted by §§ 92.03(B) and 92.08, it shall be unlawful:

(1) To refuse to sell or to 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, religion, sex, disability, familial status, or national origin;

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, disability, familial status, or national origin;

(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, or discrimination based on race, color, religion, sex, disability, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination;

(4) To represent to any person because of race, color, religion, sex, disability, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, disability, familial status, or national origin;

(6) To discriminate in the sale or rental, or to otherwise make available or deny, a dwelling to any buyer or renter because of a disability of: that buyer or renter; a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or any person associated with that person; and/or

(7) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of: that person; a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or any person associated with that person.

(B) (1) For the purpose of divisions (A)(6) and (A)(7) above, **DISCRIMINATION** includes:

(a) A refusal to permit, at the expense of the person with the disability, reasonable modifications of existing premises occupied or to be occupied by such person if the modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; and

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct covered multi-family dwellings in such a manner that the public use and common use portions of such dwellings are readily accessible to and usable by persons with disabilities; all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with disabilities in wheelchairs; and all premises within such dwellings contain the following features of adaptive design: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(2) Compliance with the appropriate requirements of Americans with Disabilities Act of 1990, being 42 U.S.C. §§ 12101 et seq., and of the American National Standard for buildings and facilities, providing accessibility and usability for physically handicapped people suffices to satisfy the requirements of division (B)(1)(c) above.

(3) Nothing in this division (B) requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(4) Divisions (A)(1) and (A)(2) above do not prohibit discrimination against a person because the person has been convicted under federal law, or the law of any state, of the illegal manufacture or distribution of a controlled substance.

(Ord. 1,1995, passed 3-13-1995) Penalty, see § 10.99

§ 92.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE.

(A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin.

(B) As used in this section, the term **RESIDENTIAL REAL ESTATE RELATED TRANSACTION** means any of the following:

(1) The making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling; or to secure residential real estate; or

(2) The selling, brokering, or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, disability, or familial status.

(Ord. 1,1995, passed 3-13-1995) Penalty, see § 10.99

§ 92.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

It shall be unlawful to deny any person access to, or membership or participation in, any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against a person in the terms or conditions of access, membership, or participation in such an organization, service, or facility because of race, color, religion, sex, disability, familial status, or national origin.

(Ord. 1,1995, passed 3-13-1995) Penalty, see § 10.99

§ 92.07 INTERFERENCE, COERCION, OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 92.03 through 92.06.

(Ord. 1,1995, passed 3-13-1995) Penalty, see § 10.99

§ 92.08 EXEMPTIONS.

(A) (1) Nothing in this chapter shall prohibit a religious organization, association, or society, or any 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 persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin.

(2) Nor shall anything in this chapter 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.

(B) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons. As used in this section, **HOUSING FOR OLDER PERSONS** means housing: provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the State Civil Rights Commission determines is 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 at least one person 55 years of age or older per unit.

(Ord. 1,1995, passed 3-13-1995)

§ 92.09 ADMINISTRATIVE ENFORCEMENT OF ORDINANCE

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission as set forth in division (B) below shall be vested in the Chief Executive Officer of the city.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the city, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of this chapter by complainants to the Indiana Civil Rights Commission ("Commission") for administrative enforcement actions pursuant to I.C. 22-9.5-6 and the Chief Elected Officer of the city shall refer all said complaints to the Commission as provided for under division (A) above to said Commission for purposes of investigation, resolution, and appropriate relief as provided for under I.C. 22-9.5-6.

(C) All executive departments of the city shall administer his or her departments, programs, and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Chief Executive Officer and the Commission to further such purposes.

(D) The Chief Executive Officer of the city, or the Chief Executive Officer's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(Ord. 1,1995, passed 3-13-1995)