

CHAPTER 94: FAIR HOUSING

Section

- 94.01 Policy statement
- 94.02 Definitions
- 94.03 Unlawful practice
- 94.04 Discrimination in the sale or rental of housing
- 94.05 Discrimination in residential real estate-related transactions
- 94.06 Discrimination in the provision of brokerage services
- 94.07 Interference, coercion, or intimidation
- 94.08 Prevention of intimidation
- 94.09 Exemptions
- 94.10 Administrative enforcement

- 94.99 Penalty

§ 94.01 POLICY STATEMENT.

It shall be the policy of the town to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended, and I.C. 22-9.5-1. (Ord. 1997-6, passed 12-17-1997)

§ 94.02 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:

(1) Claims to have been injured by a discriminatory housing practice; or

(2) Believes that the person will be injured by a discriminatory housing practice that is about to occur.

(I.C. 22-9.5-2-2)

COMMISSION. As discussed in I.C. 22-9.5-2-3, means the Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4 *et seq.*

COMPLAINANT. As discussed in I.C. 22-9.5-2-4, means a person, including the Commission, who files a complaint under I.C. 22-9.5-6.

DISABLED.

(1) With respect to a person:

(a) A physical or mental impairment which substantially limits 1 or more of the person's major life activities;

(b) A record of having such an impairment;

(c) Being regarded as having such an impairment;

(d) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; or

(e) Any other impairment defined under I.C. 22-9.5-2-10.

(2) The term **DISABLED** shall not include current illegal use of or addiction to a controlled substance as defined in 21 U.S.C. § 802 (I.C. 22-9.5-2-10(b)); nor does the term **DISABLED** include an individual solely because that individual is a transvestite (I.C. 22-9.5-2-10(c)).

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 94.04 through 94.08 of this chapter or I.C. 22-9.5-5.

DWELLING. Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by 1 or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, designed, or intended for occupancy as a residence by 1 or more families.

(I.C. 22-9.5-2-8)

FAMILIAL STATUS. One or more individuals (who have not attained the age of 18 years) being domiciled with:

(1) A parent or another person having legal custody of the individual or the written permission of the parent or other person.

(2) The protections afforded against discrimination on this 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 (I.C. 22-9.5-2-9) with the status of *FAMILY* being further defined under *FAMILIAL STATUS*.

PERSON. As discussed in I.C. 22-9.5-2-11, includes 1 or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the U.S.C., receivers, and fiduciaries.

TO RENT. As discussed in I.C. 22-9.5-2-13, includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy the premises not owned by the occupant. (Ord. 1997-6, passed 12-17-1997)

§ 94.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) of this section, § 94.09, and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1 and in § 94.04 shall apply to:

(A) All dwellings except as exempted by division (B) below and I.C. 22-9.5-3.

(B) Other than the provisions of division (C) of this section, nothing in § 94.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than 3 single-family houses at any one time; provided that in the sale of the 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 the house prior to the sale, the exemption shall apply only to 1 such sale within any 24-month period. The private individual owner may not own any interest in, nor 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 3 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 the 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, or salesperson, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesperson, or person; and

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 94.04(C) of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, 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 4 families living independently of each other, if the owner actually maintains and occupies 1 of the 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 3 or more transactions involving the sale or rental of any dwelling or any interest therein; or

(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 2 or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He or she is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, 5 or more families.
(Ord. 1997-6, passed 12-17-1997)

§ 94.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 94.03 and except as exempted by §§ 94.03(B) and 94.09, it shall be unlawful:

(A) 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, religion, sex, familial status, or national origin.

(B) 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, familial status, or national origin.

(C) 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.

(D) 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 the dwelling is in fact so available.

(E) For profit, 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, religion, sex, disability, familial status, or national origin.

(F) (1) To discriminate in the sale or rental or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(c) Any person associated with that person.

(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 with the dwelling, because of a disability of:

(a) That person;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(c) Any person associated with that person.

(3) For purposes of this division (F), **DISCRIMINATION** includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if such modifications may be necessary to afford the 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 the person equal opportunity to use and enjoy a dwelling; or

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(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1988, a failure to design and construct those dwellings in such a manner that:

1. The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons;
2. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
3. All premises within these dwellings contain the following features of adaptive design:
 - a. An accessible route into and through the dwelling;
 - b. Light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - c. Reinforcements in bathroom walls to allow later installation of grab bars; and
 - d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the Americans with Disabilities Act of 1990 and of the American National Standards Institute (ANSI) standards for buildings and facilities providing accessibility and usability for physically disabled people (commonly cited as ANSI A117.1) suffices to satisfy the requirements of division (F)(3)(c)3. of this section.

(5) Nothing in this division (F) 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.
(Ord. 1997-6, passed 12-17-1997) Penalty, see § 94.99

§ 94.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

(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:
 - (a) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (b) Secured by residential real estate.
- (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. 1997-6, passed 12-17-1997) Penalty, see § 94.99

§ 94.06 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 him or her in the terms or conditions of the access, membership, or participation, on account of race, color, religion, sex, disability, familial status, or national origin.

(Ord. 1997-6, passed 12-17-1997) Penalty, see § 94.99

§ 94.07 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 §§ 94.03 through 94.06.

(Ord. 1997-6, passed 12-17-1997) Penalty, see § 94.99

§ 94.08 PREVENTION OF INTIMIDATION.

(A) Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with the following shall be subject to the penalty in § 94.99(B):

(1) Any person because of his or her race, color, religion, sex, disability, familial status, or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings;

(2) Any person because he or she is or has been, or in order to intimidate the person or any other person or any class of persons from:

(a) Participating, without discrimination on account of race, color, religion, sex, disability, familial status, or national origin, in any of the activities, services, organizations or facilities described in these provisions; or

(b) Affording another person or class of persons opportunity or protection so to participate.

(3) Any citizen because he or she is or has been, or in order to discourage that citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status, or national origin, in any of the activities, services, organizations, or facilities described in division (A)(1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate.

(B) If bodily injury results from the actions of division (A), the person shall be subject to the provisions of § 94.99(C).

(Ord. 1997-6, passed 12-17-1997) Penalty, see § 94.99

§ 94.09 EXEMPTIONS.

(A) Exemptions defined or set forth under I.C. 22-9.5-3 shall be exempt from the provisions of this chapter to include those activities or organizations set forth under divisions (B) and (C) of this section.

(B) 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 those persons, unless membership in the religion is restricted on account of race, color, or national origin. 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 the lodgings to its members or from giving preference to its members.

(C) (1) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons.

(2) As used in this section, *HOUSING FOR OLDER PERSONS* means housing:

(a) 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

(b) Intended for, and solely occupied by, persons 62 years of age or older; or

(c) Intended and operated for occupancy by at least 1 person 55 years of age or older per unit.

(Ord. 1997-6, passed 12-17-1997)

§ 94.10 ADMINISTRATIVE ENFORCEMENT.

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

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the town, 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 the articles 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 Executive Officer of the town shall refer all the complaints to the Commission as provided for under division (A) of this section to the Commission for purposes of investigation, resolution, and appropriate relief as provided for under I.C. 22-9.5-6.

(C) All executive departments and agencies of the town shall administer their 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 the purposes.

(D) The Chief Executive Officer of the town, or the Chief Executive Officer's designee, shall provide information on referral procedures to the Commission to any aggrieved person or complainant requesting the information.

(Ord. 1997-6, passed 12-17-1997)

§ 94.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) Any person who violates the provisions of § 94.08(A) shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(C) For any person who violates the provisions of § 94.08(B), the person shall be fined not more than \$10,000, or imprisoned for not more than 10 years, or both; and if death results, shall be subject to imprisonment for any term of years or for life.

(Ord. 1997-6, passed 12-17-1997)