

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Community and Human Development

**AGENDA DATE:** January 19, 2021 (Introduction)

**CONTACT PERSON/PHONE:** Nicole Ferrini, Chief Resilience Officer, 212-1659, [ferrinim@elpasotexas.gov](mailto:ferrinim@elpasotexas.gov)

**DISTRICT(S) AFFECTED:** All Districts

**SUBJECT:**

An ordinance amending Title 17 (Housing), Chapter 17.20 (Fair Housing Ordinance) of the El Paso City Code to amend in its entirety the Chapter to change the word handicap to disability and to include protections against discrimination for reasons of sexual orientation and gender identity.

**BACKGROUND / DISCUSSION:**

The recently completed Analysis of Impediments to Fair Housing Choice identified a lack of protections from housing discrimination for LGBTQ individuals. Many cities have local ordinances that expand protections against housing discrimination, beyond those identified by the Fair Housing Act, in order to protect LGBTQ individuals. The Department of Housing and Urban Development (HUD) will investigate fair housing complaints based on those expanded local protections. This update to the Fair Housing Ordinance adds sexual orientation and gender identity to those protected from housing discrimination and updates the word "handicap" to "disability".

**PRIOR COUNCIL ACTION:**

- City Council was presented the 2020 Analysis of Impediments to Fair Housing Choice (AI) on October 27, 2020.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

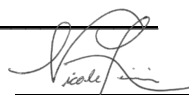
**BOARD / COMMISSION ACTION:**

The Fair Housing Task Force Coordinated with Staff on the development of the 2020 AI, and provided only positive comment on these proposed changes to the Fair Housing Ordinance.

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:**



\_\_\_\_\_  
Nicole Ferrini, Chief Resilience Officer

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING TITLE 17 (HOUSING), CHAPTER 17.20 (FAIR HOUSING ORDINANCE) OF THE EL PASO CITY CODE TO AMEND IN ITS ENTIRETY THE CHAPTER TO CHANGE THE WORD HANDICAP TO DISABILITY AND TO INCLUDE PROTECTIONS AGAINST DISCRIMINATION FOR REASONS OF SEXUAL ORIENTATION AND GENDER IDENTITY. THE PENALTY IS AS PROVIDED UNDER SECTION 17.20.150 OF THE EL PASO CITY CODE.**

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

Section 1. Title 17 (Housing), Chapter 17.20 (Fair Housing Ordinance) of the El Paso City Code is amended in its entirety to read as follows:

**Chapter 17.20 - FAIR HOUSING ORDINANCE**

**Sections:**

**17.20.010 - Title.**

This chapter may be cited as the "City of El Paso Fair Housing Ordinance."

**17.20.020 - Policy.**

Through fair, orderly and lawful procedures, it is the policy of the city to promote the opportunity for each person to obtain housing without regard to race, color, sex, sexual orientation, gender identity, religion, national origin, disability or familial status. This policy is grounded upon the recognition of the right of every person to have access to adequate housing of the person's choice, and the denial of this right because of race, color, sex, sexual orientation, gender identity, religion, national origin, disability or familial status is detrimental to the health, safety and welfare of the inhabitants of the city and constitutes an unjust deprivation of rights, which is within the power and proper responsibility of government to prevent and to create a procedure for investigating and settling complaints of discriminatory housing practices; and to provide rights and remedies substantially equivalent to those granted under federal law.

**17.20.030 - Definitions.**

As used in this chapter, unless a different meaning clearly appears from the context:

- A. "Actor" means a person identified in a complaint as having committed an unlawful act under this chapter.
- B. "Complainant" means a person, including the city, who files a written complaint under Section 17.20.070 of this chapter.

**ORDINANCE NO. \_\_\_\_\_**

- C. "Conciliation" means the attempted resolution of issues raised by a complaint or by the investigation of the complaint, through informal negotiations involving the aggrieved person, the actor, and the city.
- D. "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.
- E. "Discriminatory housing practice" means an act that is unlawful under Section 17.20.040 or declared unlawful under the Federal Fair Housing Act of 1968 (Public Law 90-284) or the Federal Fair Housing Amendments Act of 1988 (Public Law 100-430).
- F. "Familial status" means one or more individuals (who have not attained the age of eighteen years) being domiciled with:
  - 1. A parent or another person having legal custody of such individual or individuals; or
  - 2. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

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 of eighteen years.
- G. "Family" includes a single individual.
- H. "Grievance officer" means the person serving as fair housing grievance officer and includes the assistants, agents or employees assigned to work with the grievance officer.
- I. "Disability" means, with respect to a person:
  - 1. A physical or mental impairment which substantially limits one or more of such person's major life activities;
  - 2. A record of having such an impairment; or
  - 3. Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. § 802).
- J. "Housing unit" means any building, structure, mobile home, or portion thereof, which is occupied, designed, or intended for occupancy by a family or families as a residence, and any vacant land offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.
- K. "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries whether acting as principal or agent in the transaction, or two or more persons having a joint or common economic interest.
- L. "Person(s) aggrieved" means any person who claims to have been injured by a discriminatory housing practice or who believes that he or she will be injured by a discriminatory practice that is about to occur.

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- M. "Rent" includes to lease, sublease, and otherwise grant for a consideration the right to occupy premises not owned by the occupant.

**17.20.040 - Unlawful discriminatory housing practices.**

- A. It is unlawful for a person, on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, disability or familial status:
  - 1. To refuse to sell or rent an available housing unit to another person after the other person makes a bona fide offer to buy or rent the housing unit;
  - 2. To refuse to negotiate with a person for the sale or rental of a housing unit;
  - 3. To discriminate against a prospective buyer or renter in connection with the showing of a housing unit;
  - 4. To discriminate against a person in the terms, conditions or privileges of sale or rental of a housing unit, or in the provision of services or facilities in connection therewith;
  - 5. To represent to a person that any housing unit is not available for inspection, sale or rental when such housing unit is in fact so available, or to otherwise make unavailable or deny such housing unit to any person;
  - 6. As to a multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting housing units:
    - a. To deny a person access to or membership or participation in the service, organization or facility, or
    - b. To discriminate against a person in the terms or conditions of such access, or membership or participation.
- B. It is unlawful:
  - 1. To make an oral or written statement indicating a policy of the actor or of a person represented by the actor to discriminate on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, disability or familial status in the selling or renting of a housing unit;
  - 2. For gain or profit, to induce or attempt to induce a person to sell or rent a housing unit by a representation that a person of a particular race, color, religion, sex, sexual orientation, gender identity, national origin, disability or familial status is in proximity to, is present in or may enter into the neighborhood in which such housing unit is located;
  - 3. To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement which with respect to the sale or rental of a housing unit that indicates any preference, limitation or discrimination based on race, color, religion, sex, sexual orientation, gender identity, national origin, disability or familial status or an intention to make any such preference, limitation or discrimination;

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4. For a person whose business consists in whole or in part in the making or purchasing of any real estate loans, whether commercial or residential, with respect to such loans or financial assistance for the purpose of purchasing, constructing, improving, repairing, or maintaining a housing unit(s) to make any preferential determinations based on color, sex, sexual orientation, gender identity, religion, national origin, disability or familial status, such acts include but are not limited to the following:
  - a. To deny such loan or other financial assistance to a person, or
  - b. To discriminate against such person in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance,
  - c. To refuse to provide loans or other financial assistance to a person, secured by residential real estate.
5. With respect to persons with disabilities, not to:
  - a. Allow reasonable modifications in existing housing,
  - b. Allow reasonable accommodations in rules, practices, or
  - c. Meet the requirement for new designs and construction all as set forth in the Fair Housing Amendments Act, referenced above. It is expressly intended that this chapter provide at least the minimum coverage allowed by the above-referenced Act, and is in no way intended to reduce the coverage provided by said Act.
6. To coerce, intimidate, threaten or otherwise 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 Sections 803, 804, 805 or 806 of the Federal Act.

**17.20.050 - Exemptions.**

- A. Nothing in Section 17.20.040 (other than Section 17.20.040(B)(3)) shall apply to:
  1. The sale or rental of any single-family house by an owner, provided the following conditions are met:
    - a. The owner does not own or have an interest in more than three such single-family houses at any one time,
    - b. The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this paragraph (A)(1) of this section applies to only one such sale in any twenty-four-month period.
  2. Rooms or units 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.

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B. Nothing in Section 17.20.040 shall prohibit:

1. 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 housing units which it owns or operates to persons of the same religion or from giving preference to such persons, provided that:
  - a. Such sale, rental or occupancy is not for a commercial purpose,
  - b. Membership in such religion is not restricted because of race, color, sex, sexual orientation, gender identity, national origin, disability or familial status;
2. A private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members; provided, that such lodging is not owned or operated for a commercial purpose;
3. Nothing in this chapter shall be deemed to prevent operating housing primarily for persons fifty-five or older or sixty-two and older as long as such operations comply with the limitations set forth in the Fair Housing Amendments Act of 1988, referenced in this chapter.
4. Appraisal Exemption. This chapter does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, sexual orientation, gender identity, disability, familial status or national origin. Discriminatory appraisals are intended to be specifically prohibited under this chapter;
5. Effect on Other Law.
  - a. This chapter does not affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling or restriction relating to health or safety standards.
  - b. This chapter does not affect a requirement of nondiscrimination in any other state or federal law.

**17.20.060 - Fair housing grievance officer—Appointment—Duty to implement and enforcement of provisions.**

The city council shall appoint a fair housing grievance officer and provide the grievance officer with a staff adequate to effectively enforce this chapter. The fair housing grievance officer shall implement and enforce this chapter in a manner affirmatively to further the purpose of this chapter. The grievance officer shall cooperate with the secretary of housing and urban development and the attorney general of the United States in the enforcement of the Fair Housing Act of 1968, Public Law 90-284 and the Fair Housing Amendments Act of 1988, and may assist the secretary or attorney general in any way consistent with the purpose and policy of this chapter.

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**17.20.070 - Discriminatory housing practices—Reporting.**

A. An aggrieved person may report any discriminatory housing practice to the grievance officer and may file a complaint not more than one hundred and eighty days after the commission of the practice of which complaint is made. A complaint may also be filed by the grievance officer, if such officer has evidence to believe that a person has committed a discriminatory housing practice.

B. The grievance officer shall treat a complaint referred by the secretary of housing and urban development or the attorney general of the United States under the Fair Housing Act of 1968, Public Law 90-284 and the Fair Housing Amendments Act of 1988, as a complaint filed under subsection A of this section.

C. A complaint shall be in writing, verified, and contain the following information:

1. Name of aggrieved person;
2. Street address of current residence of aggrieved person;
3. Telephone number, if any, of aggrieved person;
4. Name of actor;
5. Street address of actor, if known to the aggrieved person;
6. Date of alleged discriminatory practice;
7. Street address of property involved;
8. General statement of facts pertaining to the offense, including the basis of the alleged discriminatory practice (race, color, religion, sex, sexual orientation, gender identity, familial status, disability or national origin);
9. Date of filing complaint;
10. Signature of aggrieved person;
11. If complainant is other than aggrieved person, the signature, name and street address of the complainant, in addition to the preceding information.

D. Not more than ten working days after the filing of complaint by certified mail, the grievance officer shall notify the actor named in the complaint that:

1. A complaint alleging the commission of a discriminatory housing practice has been filed against the actor and of his rights. The grievance officer shall furnish a copy of the complaint to the actor;

2. The actor may file a verified written answer to the complaint within seven days after the complaint is received by the actor.

E. A complaint or answer may be reasonably and fairly amended at any time. The grievance officer by certified mail shall furnish a copy of each amended complaint or answer the actor or the complaint, respectively, as promptly as practicable.

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F. The grievance officer and staff may not make public, without the written consent of the persons concerned, the name of the actor or the aggrieved person or any information relative to a complaint, before the grievance officer notifies the city attorney of a discriminatory housing practice alleged to have been committed in a complaint or while the complaint is in the process of being investigated and prior to completion of all negotiations.

**17.20.080 - Discriminatory housing practices—Investigation.**

A. Upon receiving a properly completed complaint, the grievance officer must process the complaint no later than thirty days. The grievance officer must also serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and forums provided under the law. The grievance officer must complete its investigation of the complaint within one hundred days of the date of the receipt of the complaint. If impracticable to do so, the officer must notify the complainant and the respondent actor in writing of this fact and the reason(s) for same.

B. If the grievance officer determines that there is not probable cause to believe that a particular alleged or suspected discriminatory housing practice has been committed, the grievance officer shall take no further action with respect to the alleged or suspected discriminatory housing practice.

C. The grievance officer shall have comprehensive authority, including but not limited to subpoena power to investigate allegations of complaints.

**17.20.090 - Discriminatory housing practices—Conciliation.**

A. It is required that conciliation be attempted during the period after the filing of the complaint and prior to the filing of a charge or dismissal.

B. It is required that any conciliation agreement arising out of conciliation efforts by the grievance officer shall be an agreement between the actor and the complainant and shall be subject to the grievance officer's approval. Such conciliation shall be made public unless the complainant and respondent actor otherwise agree and the grievance officer determines that disclosure is not required to further the purposes of the law.

C. If the grievance officer determines that there is probable cause to believe that a discriminatory housing practice alleged in a complaint has been committed, the grievance officer and the actor, or a person who owns, controls or manages the housing unit involved in the discriminatory practice, or a person who employs the actor, may voluntarily enter into a conciliation agreement.

D. If a conciliation agreement is executed under this section, a party to the agreement may not be prosecuted in municipal court for an offense specified in the agreement (as provided under subsection F(1) of this section) unless the grievance officer determines that the agreement has been violated and notifies the city attorney in writing of the violation.

E. A conciliation agreement must be in writing in a form approved by the city attorney and must be signed and verified by the grievance officer and each other party to the agreement. A

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conciliation agreement that is not executed before the expiration of thirty days after the notification to the actor (as required under Section 17.20.070(D)) must be specifically approved by the city attorney prior to its execution. A conciliation agreement is executed upon its signing and verification by all parties to the agreement.

F. A conciliation agreement executed under this section must contain:

1. An identification of the discriminatory housing practice and corresponding actor that gives rise to the conciliation agreement under subsection C of this section and the identification of any other discriminatory housing practice and actor that the parties agree to make subject to the limitation on prosecution in subsection D of this section; and

2. Identification of the housing unit subject to the conciliation agreement; and

3. A statement that each party entering into the conciliation agreement with the grievance officer agrees:

a. Not to violate this chapter or the conciliation agreement, and

b. To file with the grievance officer a monthly activity report, in accordance with the following regulations:

i. If the practice giving rise to the conciliation agreement under subsection C of this section involves:

(A) An actor who engages in a business relating to the selling or renting of housing units, or

(B) A housing unit occupied or intended for occupancy on a rental or sale basis, or

(C) A violation of Section 17.20.040(B)(4). The activity report must state, with respect to each person of the specified class discrimination in the complaint who in person contacts a party to the conciliation agreement concerning the sale, rental or financing of a housing unit, the name and street address and telephone number, if any, of such person, the date of each contact and the result of each contact,

ii. If the practice giving rise to the conciliation agreement under subsection C of this section involves a violation of Section 17.20.040(B)(2), the activity report must state the number and manner of solicitations concerning housing units made by the party and the approximate boundaries of each neighborhood in which the solicitations are made,

iii. The party who prepares the activity report shall sign and verify the report,

iv. An activity report must be filed each month with the grievance officer on the date specified in the conciliation agreement for a period of not less than three months nor more than twenty-four months, as required by the conciliation agreement.

G. In addition to the requirements of subsection F of this section, a conciliation agreement may include any other term or condition agreed to by the parties.

H. If the grievance officer determines that a conciliation agreement has been violated, the grievance officer shall give written notice by certified mail to all actors subject to the agreement.

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I. The grievance officer must make a final administrative disposition of a complaint within one year of the date of receipt of the complaint, unless it is impracticable to do so. If it is impracticable, the grievance officer shall notify the complainant and actor in writing.

**17.20.100 - Violation of conciliation agreement.**

A. A person commits an offense if, after such person and the grievance officer execute a conciliation agreement under Section 17.20.090, such person violates Section 17.20.090(F)(3)(a) or (b).

B. It is no defense to prosecution under this section that, with respect to a discriminatory housing practice gave rise to the conciliation agreement under Section 17.20.090(C):

1. The actor did not commit the offense; or
2. The grievance officer did not have probable cause to believe the offense was committed.

**17.20.105 - Remedies—Prompt judicial action.**

The grievance officer shall have authority to seek prompt judicial action for appropriate temporary or preliminary relief pending final disposition of a complaint if the grievance officer concludes such action is necessary to carry out the purposes of the law or this chapter.

**17.20.110 - Discriminatory housing practices—Notification of city attorney.**

A. Except as otherwise provided in subsection B of this section, if the grievance officer determines that there is probable cause to believe that a discriminatory housing practice alleged in a complaint has been committed, the grievance officer shall promptly notify the city attorney in writing of the identification of the actor and the discriminatory housing practice and direct that appropriate action be taken using the grievance officer's subpoena power if necessary. The grievance officer has the power to grant actual damages or to arrange to have the dispute adjudicated in court, at the expense of the office of the grievance officer, the claim to an award of actual damages, to an aggrieved person. The grievance officer is further authorized to seek injunctive or equitable relief in a court of competent jurisdiction, as well as assess a civil penalty or arrange to have the matter adjudicated in court at the grievance officer's agency's expenses, and may assess an award of punitive damages against the actor. It is further intended that the complainant may instead seek enforcement through a judicial election procedure with the remedies available under the above-referenced Act brought at the grievance officer's expense on behalf of the complainant.

B. After the grievance officer attempts a conciliation under Section 17.20.090, the grievance officer may postpone the notification to the city attorney required under subsection A of this section for a period of not more than thirty days after notification to the actor of a complaint (as required under Section 17.20.070(D)). However, if a conciliation agreement is executed during the thirty-day period of postponement, the grievance officer is not required to notify the city attorney of the identification of the actor or of a discriminatory housing practice specified in the

**ORDINANCE NO.** \_\_\_\_\_

conciliation agreement (as provided in Section 17.20.090(F)(1)) unless the grievance officer determines that the agreement has been violated.

C. Notification required under subsection A of this section is not a prerequisite to prosecution or referral to HUD as a discriminatory housing practice under this chapter. This section does not limit any communications, otherwise lawful, between the grievance officer and the city attorney.

**17.20.120 - Discriminatory housing practices—Dismissal of complaint.**

If, after the city attorney files a complaint in the municipal court charging an actor with a discriminatory housing practice, a conciliation agreement is executed under Section 17.20.090 before commencement of trial on the discriminatory housing practice, the city attorney may cease prosecution and move for dismissal of the complaint.

**17.20.125 - Enforcement by private persons.**

This chapter may be enforced by an aggrieved person by the commencement of an action in an appropriate court not less than one year after the occurrence or termination of an alleged discriminatory housing practice; said court may: (1) award the plaintiff actual and punitive damages; (2) grant as relief as it deems appropriate, any temporary or permanent injunction, temporary restraining order, or other order, and allow reasonable attorneys' fees and costs. It is expressly intended that any grievance officer's actions are subject to judicial review upon application by any party aggrieved by a final order of such grievance officer. Such review process must include access to all remedies contemplated by the Fair Housing Act. Such court's authority must include authority to grant the petitioner, or any other party, such temporary relief, restraining order, or other order as the court determines is just and proper; to affirm, modify, set aside in whole or in part, the order, or remand the order for further proceedings and enforce the order to the extent the order is affirmed or modified.

**17.20.130 - Discriminatory housing practices—Additional remedies.**

The procedures prescribed by this chapter do not constitute an administrative prerequisite to another action or remedy available under other law.

**17.20.140 - Educational and public information activities.**

The grievance officer may conduct such educational and public information activities as are designed to promote the policy of this chapter.

**17.20.150 - Violation—Penalty.**

**ORDINANCE NO.** \_\_\_\_\_

Any person who violates this chapter is guilty of a separate offense for each day or portion of a day on which the violation is committed, and each offense is punishable by a fine of not more than five hundred dollars.

Section 2. Except as herein amended, Title 17 (Housing) of the El Paso City Code remains in full force and effect.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.


**CITY OF EL PASO:**

\_\_\_\_\_  
Oscar Leeser, Mayor


**ATTEST:**

\_\_\_\_\_  
Laura D. Prine, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Omar De la Rosa  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Nicole Ferrini,  
Chief Resilience Officer

**ORDINANCE NO.** \_\_\_\_\_

Chapter 17.20 - FAIR HOUSING ORDINANCE\*

**Sections:**

17.20.010 - Title.

This chapter may be cited as the "City of El Paso Fair Housing Ordinance."

(Ord. 11230 § 1 (part), 1992)

17.20.020 - Policy.

Through fair, orderly and lawful procedures, it is the policy of the city to promote the opportunity for each person to obtain housing without regard to race, color, ~~sex~~sex, sexual orientation, gender identity, religion, national origin, ~~handicap~~disability or familial status. This policy is grounded upon the recognition of the right of every person to have access to adequate housing of the person's choice, and the denial of this right because of race, color, ~~sex~~sex, sexual orientation, gender identity, religion, national origin, ~~handicap~~disability or familial status is detrimental to the health, safety and welfare of the inhabitants of the city and constitutes an unjust deprivation of rights, which is within the power and proper responsibility of government to prevent and to create a procedure for investigating and settling complaints of discriminatory housing practices; and to provide rights and remedies substantially equivalent to those granted under federal law.

(Ord. 11230 § 1 (part), 1992)

17.20.030 - Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

- A. "Actor" means a person identified in a complaint as having committed an unlawful act under this chapter.
- B. "Complainant" means a person, including the city, who files a written complaint under Section 17.20.070 of this chapter.
- C. "Conciliation" means the attempted resolution of issues raised by a complaint or by the investigation of the complaint, through informal negotiations involving the aggrieved person, the actor, and the city.
- D. "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.
- E. "Discriminatory housing practice" means an act that is unlawful under Section 17.20.040 or declared unlawful under the Federal Fair Housing Act of 1968 (Public Law 90-284) or the Federal Fair Housing Amendments Act of 1988 (Public Law 100-430).
- F. "Familial status" means one or more individuals (who have not attained the age of eighteen years) being domiciled with:
  - 1. A parent or another person having legal custody of such individual or individuals; or
  - 2. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

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 of eighteen years.

- G. "Family" includes a single individual.

H. "Grievance officer" means the person serving as fair housing grievance officer and includes the assistants, agents or employees assigned to work with the grievance officer.

I. ~~"HandicapDisability" means, with respect to a person:~~

1. A physical or mental impairment which substantially limits one or more of such person's major life activities;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. § 802). ~~In this chapter, a reference to "an individual with a handicap" or to "handicap" does not apply to an individual because of that individual's sexual orientation or because that individual is a transvestite.~~

J. "Housing unit" means any building, structure, mobile home, or portion thereof, which is occupied, designed, or intended for occupancy by a family or families as a residence, and any vacant land offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

K. "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries whether acting as principal or agent in the transaction, or two or more persons having a joint or common economic interest.

L. "Person(s) aggrieved" means any person who claims to have been injured by a discriminatory housing practice or who believes that he or she will be injured by a discriminatory practice that is about to occur.

M. "Rent" includes to lease, sublease, and otherwise grant for a consideration the right to occupy premises not owned by the occupant.

(Ord. 11230 § 1 (part), 1992)

17.20.040 - Unlawful discriminatory housing practices.

A. It is unlawful for a person, on the basis of race, color, ~~sexsex, sexual orientation, gender identity,~~ religion, national origin, ~~handicapdisability~~ or familial status:

1. To refuse to sell or rent an available housing unit to another person after the other person makes a bona fide offer to buy or rent the housing unit;
2. To refuse to negotiate with a person for the sale or rental of a housing unit;
3. To discriminate against a prospective buyer or renter in connection with the showing of a housing unit;
4. To discriminate against a person in the terms, conditions or privileges of sale or rental of a housing unit, or in the provision of services or facilities in connection therewith;
5. To represent to a person that any housing unit is not available for inspection, sale or rental when such housing unit is in fact so available, or to otherwise make unavailable or deny such housing unit to any person;
6. As to a multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting housing units:
  - a. To deny a person access to or membership or participation in the service, organization or facility, or

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- b. To discriminate against a person in the terms or conditions of such access, or membership or participation.

B. It is unlawful:

1. To make an oral or written statement indicating a policy of the actor or of a person represented by the actor to discriminate on the basis of race, color, ~~sex~~sex, sexual orientation, gender identity, religion, national origin, handicapdisability or familial status in the selling or renting of a housing unit;
2. For gain or profit, to induce or attempt to induce a person to sell or rent a housing unit by a representation that a person of a particular race, color, religion, ~~sex~~sex, sexual orientation, gender identity, national origin, handicapdisability or familial status is in proximity to, is present in or may enter into the neighborhood in which such housing unit is located;
3. To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement which with respect to the sale or rental of a housing unit that indicates any preference, limitation or discrimination based on race, color, religion, ~~sex~~sex, sexual orientation, gender identity, national origin, handicapdisability or familial status or an intention to make any such preference, limitation or discrimination;
4. For a person whose business consists in whole or in part in the making or purchasing of any real estate loans, whether commercial or residential, with respect to such loans or financial assistance for the purpose of purchasing, constructing, improving, repairing, or maintaining a housing unit(s) to make any preferential determinations based on color, ~~sex~~sex, sexual orientation, gender identity, religion, national origin, handicapdisability or familial status, such acts include but are not limited to the following:
  - a. To deny such loan or other financial assistance to a person, or
  - b. To discriminate against such person in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance,
  - c. To refuse to provide loans or other financial assistance to a person, secured by residential real estate.
5. With respect to ~~handicapped~~ persons with disabilities, not to:
  - a. Allow reasonable modifications in existing housing,
  - b. Allow reasonable accommodations in rules, practices, or
  - c. Meet the requirement for new designs and construction all as set forth in the Fair Housing Amendments Act, referenced above. It is expressly intended that this chapter provide at least the minimum coverage allowed by the above-referenced Act, and is in no way intended to reduce the coverage provided by said Act.
6.     —To coerce, intimidate, threaten or otherwise 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 Sections 803, 804, 805 or 806 of the Federal Act.

(Ord. 11230 § 1 (part), 1992)

17.20.050 - Exemptions.

A. Nothing in Section 17.20.040 (other than Section 17.20.040(B)(3)) shall apply to:

1. The sale or rental of any single-family house by an owner, provided the following conditions are met:

- a. The owner does not own or have an interest in more than three such single-family houses at any one time,
  - b. The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this paragraph (A)(1) of this section applies to only one such sale in any twenty-four-month period.
2. Rooms or units 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.
- B. Nothing in Section 17.20.040 shall prohibit:
1. 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 housing units which it owns or operates to persons of the same religion or from giving preference to such persons, provided that:
    - a. Such sale, rental or occupancy is not for a commercial purpose,
    - b.       —Membership in such religion is not restricted because of race, color, ~~sex~~sex, sexual orientation, gender identity, national origin, ~~handicap~~disability or familial status;
  2. A private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members; provided, that such lodging is not owned or operated for a commercial purpose;
  3. Nothing in this chapter shall be deemed to prevent operating housing primarily for persons fifty-five or older or sixty-two and older as long as such operations comply with the limitations set forth in the Fair Housing Amendments Act of 1988, referenced in this chapter.
  4. Appraisal Exemption. This chapter does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, ~~sex~~sex, sexual orientation, gender identity, handicapdisability, familial status or national origin. Discriminatory appraisals are intended to be specifically prohibited under this chapter;
  5. Effect on Other Law.
    - a. This chapter does not affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling or restriction relating to health or safety standards.
    - b. This chapter does not affect a requirement of nondiscrimination in any other state or federal law.

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(Ord. 11230 § 1 (part), 1992)

17.20.060 - Fair housing grievance officer—Appointment—Duty to implement and enforcement of provisions.

The city council shall appoint a fair housing grievance officer and provide the grievance officer with a staff adequate to effectively enforce this chapter. The fair housing grievance officer shall implement and enforce this chapter in a manner affirmatively to further the purpose of this chapter. The grievance officer shall cooperate with the secretary of housing and urban development and the attorney general of the United States in the enforcement of the Fair Housing Act of 1968, Public Law 90-284 and the Fair



Housing Amendments Act of 1988, and may assist the secretary or attorney general in any way consistent with the purpose and policy of this chapter.

(Ord. 11230 § 1 (part), 1992)

17.20.070 - Discriminatory housing practices—Reporting.

A. An aggrieved person may report any discriminatory housing practice to the grievance officer and may file a complaint not more than one hundred and eighty days after the commission of the practice of which complaint is made. A complaint may also be filed by the grievance officer, if such officer has evidence to believe that a person has committed a discriminatory housing practice.

B. The grievance officer shall treat a complaint referred by the secretary of housing and urban development or the attorney general of the United States under the Fair Housing Act of 1968, Public Law 90-284 and the Fair Housing Amendments Act of 1988, as a complaint filed under subsection A of this section.

C. A complaint shall be in writing, verified, and contain the following information:

1. Name of aggrieved person;
2. Street address of current residence of aggrieved person;
3. Telephone number, if any, of aggrieved person;
4. Name of actor;
5. Street address of actor, if known to the aggrieved person;
6. Date of alleged discriminatory practice;
7. Street address of property involved;

8. General statement of facts pertaining to the offense, including the basis of the alleged discriminatory practice (race, color, religion, sex, sexual orientation, gender identity, familial status, disability or national origin);

9. Date of filing complaint;

10. Signature of aggrieved person;

11. If complainant is other than aggrieved person, the signature, name and street address of the complainant, in addition to the preceding information.

D. Not more than ten working days after the filing of complaint by certified mail, the grievance officer shall notify the actor named in the complaint that:

1. A complaint alleging the commission of a discriminatory housing practice has been filed against the actor and of his rights. The grievance officer shall furnish a copy of the complaint to the actor;

2. The actor may file a verified written answer to the complaint within seven days after the complaint is received by the actor.

E. A complaint or answer may be reasonably and fairly amended at any time. The grievance officer by certified mail shall furnish a copy of each amended complaint or answer the actor or the complaint, respectively, as promptly as practicable.

F. The grievance officer and staff may not make public, without the written consent of the persons concerned, the name of the actor or the aggrieved person or any information relative to a complaint, before the grievance officer notifies the city attorney of a discriminatory housing practice alleged to have been committed in a complaint or while the complaint is in the process of being investigated and prior to completion of all negotiations.

(Ord. 11230 § 1 (part), 1992)

17.20.080 - Discriminatory housing practices—Investigation.

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A. Upon receiving a properly completed complaint, the grievance officer must process the complaint no later than thirty days. The grievance officer must also serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and forums provided under the law. The grievance officer must complete its investigation of the complaint within one hundred days of the date of the receipt of the complaint. If impracticable to do so, the officer must notify the complainant and the respondent actor in writing of this fact and the reason(s) for same.

B. If the grievance officer determines that there is not probable cause to believe that a particular alleged or suspected discriminatory housing practice has been committed, the grievance officer shall take no further action with respect to the alleged or suspected discriminatory housing practice.

C. The grievance officer shall have comprehensive authority, including but not limited to subpoena power to investigate allegations of complaints.

(Ord. 11230 § 1 (part), 1992)

17.20.090 - Discriminatory housing practices—Conciliation.

A. It is required that conciliation be attempted during the period after the filing of the complaint and prior to the filing of a charge or dismissal.

B. It is required that any conciliation agreement arising out of conciliation efforts by the grievance officer shall be an agreement between the actor and the complainant and shall be subject to the grievance officer's approval. Such conciliation shall be made public unless the complainant and respondent actor otherwise agree and the grievance officer determines that disclosure is not required to further the purposes of the law.

C. If the grievance officer determines that there is probable cause to believe that a discriminatory housing practice alleged in a complaint has been committed, the grievance officer and the actor, or a person who owns, controls or manages the housing unit involved in the discriminatory practice, or a person who employs the actor, may voluntarily enter into a conciliation agreement.

D. If a conciliation agreement is executed under this section, a party to the agreement may not be prosecuted in municipal court for an offense specified in the agreement (as provided under subsection F(1) of this section) unless the grievance officer determines that the agreement has been violated and notifies the city attorney in writing of the violation.

E. A conciliation agreement must be in writing in a form approved by the city attorney and must be signed and verified by the grievance officer and each other party to the agreement. A conciliation agreement that is not executed before the expiration of thirty days after the notification to the actor (as required under Section 17.20.070(D)) must be specifically approved by the city attorney prior to its execution. A conciliation agreement is executed upon its signing and verification by all parties to the agreement.

F. A conciliation agreement executed under this section must contain:

1. An identification of the discriminatory housing practice and corresponding actor that gives rise to the conciliation agreement under subsection C of this section and the identification of any other discriminatory housing practice and actor that the parties agree to make subject to the limitation on prosecution in subsection D of this section; and

2. Identification of the housing unit subject to the conciliation agreement; and

3. A statement that each party entering into the conciliation agreement with the grievance officer agrees:

a. Not to violate this chapter or the conciliation agreement, and

b. To file with the grievance officer a monthly activity report, in accordance with the following regulations:

i. If the practice giving rise to the conciliation agreement under subsection C of this section involves:

(A) An actor who engages in a business relating to the selling or renting of housing units, or

(B) A housing unit occupied or intended for occupancy on a rental or sale basis, or

(C) A violation of Section 17.20.040(B)(4). The activity report must state, with respect to each person of the specified class discrimination in the complaint who in person contacts a party to the conciliation agreement concerning the sale, rental or financing of a housing unit, the name and street address and telephone number, if any, of such person, the date of each contact and the result of each contact,

ii. If the practice giving rise to the conciliation agreement under subsection C of this section involves a violation of Section 17.20.040(B)(2), the activity report must state the number and manner of solicitations concerning housing units made by the party and the approximate boundaries of each neighborhood in which the solicitations are made,

iii. The party who prepares the activity report shall sign and verify the report,

iv. An activity report must be filed each month with the grievance officer on the date specified in the conciliation agreement for a period of not less than three months nor more than twenty-four months, as required by the conciliation agreement.

G. In addition to the requirements of subsection F of this section, a conciliation agreement may include any other term or condition agreed to by the parties.

H. If the grievance officer determines that a conciliation agreement has been violated, the grievance officer shall give written notice by certified mail to all actors subject to the agreement.

I. The grievance officer must make a final administrative disposition of a complaint within one year of the date of receipt of the complaint, unless it is impracticable to do so. If it is impracticable, the grievance officer shall notify the complainant and actor in writing.

(Ord. 11230 § 1 (part), 1992)

17.20.100 - Violation of conciliation agreement.

A. A person commits an offense if, after such person and the grievance officer execute a conciliation agreement under Section 17.20.090, such person violates Section 17.20.090(F)(3)(a) or (b).

B. It is no defense to prosecution under this section that, with respect to a discriminatory housing practice gave rise to the conciliation agreement under Section 17.20.090(C):

1. The actor did not commit the offense; or

2. The grievance officer did not have probable cause to believe the offense was committed.

(Ord. 11230 § 1 (part), 1992)

17.20.105 - Remedies—Prompt judicial action.

The grievance officer shall have authority to seek prompt judicial action for appropriate temporary or preliminary relief pending final disposition of a complaint if the grievance officer concludes such action is necessary to carry out the purposes of the law or this chapter.

(Ord. 11230 § 1 (part), 1992)

17.20.110 - Discriminatory housing practices—Notification of city attorney.

A. Except as otherwise provided in subsection B of this section, if the grievance officer determines that there is probable cause to believe that a discriminatory housing practice alleged in a complaint has been committed, the grievance officer shall promptly notify the city attorney in writing of the identification of the actor and the discriminatory housing practice and direct that appropriate action be taken using the grievance officer's subpoena power if necessary. The grievance officer has the power to grant actual damages or to arrange to have the dispute adjudicated in court, at the expense of the office of the grievance officer, the claim to an award of actual damages, to an aggrieved person. The grievance officer is further authorized to seek injunctive or equitable relief in a court of competent jurisdiction, as well as

assess a civil penalty or arrange to have the matter adjudicated in court at the grievance officer's agency's expenses, and may assess an award of punitive damages against the actor. It is further intended that the complainant may instead seek enforcement through a judicial election procedure with the remedies available under the above-referenced Act brought at the grievance officer's expense on behalf of the complainant.

B. After the grievance officer attempts a conciliation under Section 17.20.090, the grievance officer may postpone the notification to the city attorney required under subsection A of this section for a period of not more than thirty days after notification to the actor of a complaint (as required under Section 17.20.070(D)). However, if a conciliation agreement is executed during the thirty-day period of postponement, the grievance officer is not required to notify the city attorney of the identification of the actor or of a discriminatory housing practice specified in the conciliation agreement (as provided in Section 17.20.090(F)(1)) unless the grievance officer determines that the agreement has been violated.

C. Notification required under subsection A of this section is not a prerequisite to prosecution or referral to HUD as a discriminatory housing practice under this chapter. This section does not limit any communications, otherwise lawful, between the grievance officer and the city attorney.

(Ord. 11230 § 1 (part), 1992)

17.20.120 - Discriminatory housing practices—Dismissal of complaint.

If, after the city attorney files a complaint in the municipal court charging an actor with a discriminatory housing practice, a conciliation agreement is executed under Section 17.20.090 before commencement of trial on the discriminatory housing practice, the city attorney may cease prosecution and move for dismissal of the complaint.

(Ord. 11230 § 1 (part), 1992)

17.20.125 - Enforcement by private persons.

This chapter may be enforced by an aggrieved person by the commencement of an action in an appropriate court not less than one year after the occurrence or termination of an alleged discriminatory housing practice; said court may: (1) award the plaintiff actual and punitive damages; (2) grant as relief as it deems appropriate, any temporary or permanent injunction, temporary restraining order, or other order, and allow reasonable attorneys' fees and costs. It is expressly intended that any grievance officer's actions are subject to judicial review upon application by any party aggrieved by a final order of such grievance officer. Such review process must include access to all remedies contemplated by the Fair Housing Act. Such court's authority must include authority to grant the petitioner, or any other party, such temporary relief, restraining order, or other order as the court determines is just and proper; to affirm, modify, set aside in whole or in part, the order, or remand the order for further proceedings and enforce the order to the extent the order is affirmed or modified.

(Ord. 11230 § 1 (part), 1992)

17.20.130 - Discriminatory housing practices—Additional remedies.

The procedures prescribed by this chapter do not constitute an administrative prerequisite to another action or remedy available under other law.

(Ord. 11230 § 1 (part), 1992)

17.20.140 - Educational and public information activities.

The grievance officer may conduct such educational and public information activities as are designed to promote the policy of this chapter.

(Ord. 11230 § 1 (part), 1992)

17.20.150 - Violation—Penalty.

Any person who violates this chapter is guilty of a separate offense for each day or portion of a day on which the violation is committed, and each offense is punishable by a fine of not more than five hundred dollars.

| (Ord. 11230 § 1 (part), 1992)

