

## ORDINANCE 4340

### AN ORDINANCE AMENDING FAIR HOUSING ORDINANCE 3528

WHEREAS, It is the policy of the City of Goshen to provide, within constitutional limitation, for fair housing throughout the city.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Goshen, Indiana, that Fair Housing Ordinance 3528 shall be amended to read as follows:

#### **Article I Definitions**

- (a) DWELLING - Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) 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.
- (b) FAMILY - Includes a single individual.
- (c) HANDICAP - With respect to a person, includes:
  - (1) a physical or mental impairment that substantially limits one (1) or more of the person's major life activities;
  - (2) a record of having an impairment described in subdivision (1); or
  - (3) being regarded as having an impairment described in subdivision (1).
  - (4) The term does not include current illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act 921 U.S.C. 802).
- (d) 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.
- (e) TO RENT - Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises owned by the occupant.
- (f) Any definitions contained in Indiana Code 22-6.5 are incorporated into this ordinance and shall be used in construing the ordinance terms and provisions.

#### **Article II Discrimination in the Sale or Rental of Housing**

The following prohibitions against discrimination in the sale or rental of housing apply to all dwellings. Except as exempted by Article II, it shall be unlawful:

- (a) To refuse to sell or to rent after the making of a bonafide offer, 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, handicap, 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, handicap, 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 intention, preference, limitation, or discrimination based on race, color, religion, sex, familial status, handicap, or national origin or an intention to make such a preference, limitation or discrimination.
- (d) To represent to any person because of race, color, religion, sex, familial status, handicap, or national origin that the dwelling is not available for inspection, sale, or rental when such 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 a neighborhood of a person of a particular race, color, religion, sex, familial status, handicap, or national origin.
- (f) 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, familial status, handicap, or national origin. The definition of residential real estate related transactions shall be as the definition is set forth at Indiana Code 22-9.5-5-6.

**Article III Exemptions**

Sections (a) and (b) of Article II do not apply to the following:

- (a) The sale or rental of a single-family house sold or rented by an owner if:
  - (1) the owner does not:
    - (A) own more than three (3) single-family houses at any one (1) time; or
    - (B) own any interest in, nor is there owned or reserved on the owner’s behalf, under any express or voluntary agreement, title to, or any right to any part of the proceeds from the sale or rental of more than three (3) single-family houses at any one (1) time; and
  - (2) the house was sold or rented without:
    - (A) the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or person; and
    - (B) the publication, posting, or mailing of a notice, a statement, or an advertisement that indicates any intention, preference, limitation, or discrimination based on race, color, religion, sex, familial status, handicap, or national origin.
- (b) The sale or rental of rooms or units in a dwelling containing living quarters accepted or intended to be occupied by no more than four (4) families living independently of each other if the owner maintains and occupies one (1) of the living quarters as the owner’s residence.
- (c) For the purposes of section (a), a person shall be deemed to be in the business of selling or renting dwellings if he or she has, within the preceding twelve (12) months, participated as:

- (1) principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or
  - (2) agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein, or
  - (3) the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five (5) or more families.
- (d) The exemption in section (a) applies to only one (1) sale or rental in a twenty-four (24) month period if the owner was not the most recent resident of the house at the time of the sale or rental.
- (e) Sections (a) and (b) of Article II do not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state for the illegal manufacture or distribution of a controlled substance.
- (f) Nothing in this ordinance shall prohibit a religious organization, association, or society, or any nonprofit institution or organization, 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, sex, familial status, handicap, or national origin.
- (g) Nor shall anything in this ordinance prohibit a private club not 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.

#### **Article IV Other Prohibited Discrimination**

- (a) It shall be unlawful for any bank, building and loan association, or other corporation, association, firm or enterprise whose business consists in whole or part in making of commercial real estate loans to deny a loan or other financial assistance to a person for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling because of race, color, religion, sex, familial status, handicap, or national origin. Such discrimination shall include the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance.
- (b) It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate broker organizations, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, familial status, handicap, or national origin.

#### **Article V Discrimination Based on Handicap**

- (a) A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:
- (1) the buyer or renter;

- (2) a person residing in or intending to reside in the dwelling after the dwelling is sold, rented, or made available; or
  - (3) any person associated with the buyer or renter.
- (b) A person may not 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 handicap of:
  - (1) the person;
  - (2) a person residing in or intending to reside in the dwelling after the dwelling is sold, rented, or made available; or
  - (3) any person associated with the person.
- (c) For purposes of this ordinance only, discrimination includes the following:
  - (1) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises.
  - (2) a refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.
  - (3) in connection with the design and construction of covered multifamily dwellings for first occupancy after January 1, 1993, a failure to design and construct those dwellings in a manner that:
    - (A) the public use and common use parts of the dwellings are readily accessible to and usable by handicapped persons;
    - (B) all the doors are designed to allow passage into and within the dwellings and are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
    - (C) all premises within the dwellings contain the following features of adaptive design:
      - (i) an accessible route into and through the dwelling;
      - (ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
      - (iii) reinforcements in bathroom walls to allow later installation of grab bars; and
      - (iv) usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.
- (d) As used in section (c), “covered multifamily dwellings” means:
  - (1) buildings consisting of four (4) or more units if the buildings have one (1) or more elevators; and
  - (2) ground floor units in other buildings consisting of four (4) or more units.

**Article VI Administration**

- (a) The authority and responsibility for administering this ordinance shall be the responsibility of the Goshen Community Relations Commission (Commission).
- (b) The Commission may delegate any of these functions, duties, and powers to employees of the City or to boards of the City, including such functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this ordinance.
- (c) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this ordinance and shall cooperate with the Commission to further such purposes.

**Article VII Enforcement**

(a) Complaints

- (1) The Commission or any person who claims to have been injured by a discriminatory housing practice or who believes that he/she will be irrevocably injured by a discriminatory housing practice that is about to occur (person aggrieved) may file a complaint.
- (2) All complaints shall be in writing and shall contain such information and be in such format as the Commission requires.
- (3) All complaints shall be under oath.
- (4) Any complaint must be filed no later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, whichever is later.
- (5) A complaint may be amended at any time.
- (6) The Commission will confirm the receipt of the complaint and give the aggrieved person notice of time limits and choice of forums.

(b) Service of Complaint

- (1) The Commission shall within twenty (20) days after the filing of the complaint or the identification of an additional respondent serve on each respondent:
  - (A) a notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of a respondent under this ordinance.
  - (B) provide the respondent with a copy of the complaint.

(c) Answer

- (1) A respondent shall file an answer to the complaint no later than ten (10) days after the receipt of the notice and a copy of the complaint.
- (2) The answer must be in writing, under oath and on a form prescribed by the Commission.
- (3) The answer may be amended at any time.

- (d) The proceedings shall be consistent with the procedures and requirements established by Indiana Code 22-9.5-6-1 through 22-9.5-6-18 inclusive.
- (e) The process shall meet all time requirements established in Indiana Code 22-9.5-6-1 through 22-9.5-6-18 inclusive.

**Article VIII 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 having exercised or enjoyed, or on account of his/her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this ordinance. This section may be enforced by appropriate civil action.

**Article IX Separability of Provisions**

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

**Article X Effective Date**

This ordinance shall be in full force and effect from and after its passage, approval and publication according to the laws of the State of Indiana.

This Ordinance is passed by the Common Council of the City of Goshen, Indiana on the 7<sup>th</sup> day of February, 2006.

/s/ Allan Kauffman  
Allan Kauffman, Presiding Officer

Attest:

/s/ Tina M. Bontrager  
Tina M. Bontrager, Clerk-Treasurer

This Ordinance, having been passed by the Common Council, is presented by me to the Mayor for his approval on the 7<sup>th</sup> day of February, 2006 at 7:00 p.m.

/s/ Tina M. Bontrager  
Tina M. Bontrager, Clerk-Treasurer

This Ordinance, having been passed by the Common Council and presented to me is approved by me and adopted on the 7<sup>th</sup> day of February, 2006.

/s/ Allan Kauffman  
Allan Kauffman, Mayor