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CHAPTER 96: FAIR HOUSING STANDARDS

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**§ 96.01 POLICY STATEMENT.**

It shall be the policy of the city 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 IC 22-9.5-1 et. seq. (Ord. 96-2, passed 1-16-96)

**§ 96.02 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 (IC 22-9.5-2-2):

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

**COMMISSION** (IC 22-9.5-2-3) means the Indiana Civil Rights Commission created pursuant to IC 22-9-1-4 et seq.

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**COMPLAINANT** (IC 22-9.5-2-4) means a person, including the Commission, who files a complaint under IC 22-9.5-6.

**DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under § 96.04 through 96.07 or 96.99 of this section or IC 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 one 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, or designed or intended for occupancy as a residence by one or more families (IC 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 such individual or the written permission of such parent or other person.

The protections afforded against discrimination on this basis of familial status shall apply to any person who is pregnant or in the process of securing legal custody of any individual who has not attained the age of 18 years.

**FAMILY.** Includes a single individual as defined in IC 22-9.5-2-9.

**HANDICAP** 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;

(3) Being regarded as having such an impairment;

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

(5) Any other impairment defined under state law.

The term **HANDICAP** shall not include current illegal use of or addiction to a controlled substance as defined in Section 802 of Title 21 of the United States Code; nor does the term **HANDICAP** include an individual solely because that

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individual is a transvestite.

**PERSON** (IC 22-9.5-2-11) includes one or more individuals, corporations, limited liability companies, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.

**TO RENT** (IC 22-9.5-2-13) includes to lease, to sublease, to let and otherwise to grant for consideration the right to occupy the premises owned by the occupant.  
(Ord. 96-2, passed 1-16-96)

**§ 96.03 UNLAWFUL PRACTICE.**

Subject to the provisions of division (B) of this section, § 96.08, and IC 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth IC 22-9.5-5-1 and in § 96.04 shall apply to:

(A) All dwelling except as exempted by division (B) of this section and IC 22-9.5-3.

(B) Other than the provisions of division (C) of this section, nothing in § 96.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of such house prior to the sale, the exemption shall apply only to one such sale within any 24-month period. The private individual owner may not own any interest in, nor have owned or reserved on his behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be excepted from application of this section only if such house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesperson, or any person in the business or 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

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advertisement or written notice in violation of section 4(c) of this chapter, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title; or

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

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

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

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

(3) He is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.  
(Ord. 96-2, passed 1-16-96) Penalty, see § 96.99

**§ 96.04 DISCRIMINATION IN SALE OR RENTAL OF HOUSING.**

As made applicable by § 96.03 and except as exempted by § 96.03(B) and 93.09, 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 or 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

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that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, 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, handicap, familial status or national origin that any 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 perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, 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 handicap 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 such dwelling, because of a handicap of:

(a) That person; or

(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 subsection, discrimination includes:

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

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

(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 such dwellings are readily accessible to and usable by handicapped persons;

2. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

3. All premises within such 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 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 Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A177.1") suffices to satisfy the requirements of division (F)(3)(c)3. of this section.

(5) Nothing in this division 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. 96-2, passed 1-16-96) Penalty, see § 96.99

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**§ 96.05 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, handicap, 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, handicap, or familial status.

(Ord. 96-2, passed 1-16-96) Penalty, see § 96.99

**§ 96.06 DISCRIMINATION IN 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 broker, organization 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, handicap, familial status or national origin.

(Ord. 96-2, passed 1-16-96) Penalty, see § 96.99

**§ 96.07 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 having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by § 96.04 through 96.06.

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(Ord. 96-2, passed 1-16-96) Penalty, see § 96.99

**§ 96.08 EXEMPTIONS.**

(A) Exemptions defined or set forth under IC 22-9.5-3 et seq. shall be exempt from the provisions of this chapter to include those activities or organizations set forth under division (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 such persons, unless membership in such 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 such 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 one person 55 years of age or older per unit.

(Ord. 96-2, passed 1-16-96)

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*ADMINISTRATION AND ENFORCEMENT*

**§ 96.20 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) of this section shall be vested in the Zoning Administrator of the City of Garrett, Indiana.

(B) Notwithstanding the provisions of IC 22-9.5-4-8, the City of Garrett, Indiana, because of 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 or violation of the articles of this chapter by Complainants to the Indiana Civil Rights Commission ("Commission") for administrative enforcement actions pursuant to IC 22-9.5-6 and the Zoning Administrator of the City of Garrett, Indiana, shall refer all said complaints to the Commission as provided for under division (A) of this section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under IC 22-9.5-6.

(C) All executive departments and agencies of the city 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 Zoning Administrator and the Commission to further such purposes.

(D) The Zoning Administrator shall provide information on remedies available to any Aggrieved Person or Complainant requesting such information.  
(Ord. 96-2, passed 1-16-96)

**§ 96.99 PENALTY.**

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:

(A) Any person because of race, color, religion, sex, handicap, familial status, or national origin and because he 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; or

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

(1) Participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection 15(a); or

(2) Affording another person or class of persons opportunity or protection so to participate; or

(C) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully abiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations, or facilities described in division (A) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate is subject to the following penalties under Indiana law:

(1) A fine of not more than \$1,000 or imprisonment for not more than one year, or both;

(2) A fine of not more than \$10,000 or imprisonment for not more than ten years, or both, if bodily injury results from the violation; and

(3) Imprisonment for any term of years or for life if death results from the violation.

(Ord. 96-2, passed 1-16-96)