

ARTICLE 1. GARY CIVIL RIGHTS ORDINANCE

This Ordinance shall be known and may be cited and referred to as the "Gary Civil Rights Ordinance."

ARTICLE 2. PURPOSES

It is the public policy of the City of Gary, Indiana to provide all of its citizens equal opportunity for education, employment, and access to public conveniences and accommodations and acquisition through purchase or rental of real property including, but not limited to housing and to eliminate segregation or separation based solely on race, color, creed, religion, sex, ancestry, familial status, national origin, or handicap, is the purpose of this act. It is also the public policy of this city to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders and lending institutions from unfounded charges of discrimination.

Equal educational and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property, to the extent that remedies for the prevention of their denial are herein provided, are hereby declared to be civil rights. The practice of denying these rights to properly qualified persons by reason of the race, color, creed, religion, sex, familial status, national origin, ancestry, or handicap of such person is contrary to the principles of freedom and equality of opportunity, and is a burden to the objectives of the public policy of this city and are hereby declared to be unlawful discriminatory practices.

It is hereby declared to be contrary to the public policy of the City of Gary and an unlawful practice for any person for profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, familial status, handicap, national origin, or ancestry.

ARTICLE 3. DEFINITIONS

For the purpose of this Ordinance, the phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the plural number. The word "shall" is always mandatory and not merely directory.

(A) The term "Person" means one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title II, receivers and fiduciaries. Aggrieved person includes any person who:

Claims to have been injured by a discriminatory act or practice;
or believes that said person will be injured by discriminatory
housing practice that is about to occur.

(B) The term "Commission" means the Human Relations Commission of the City of Gary, Indiana, hereinafter created.

(C) The term "Conciliation" means the attempted resolution of issues raised by a complaint or by the investigation of a complaint, through informal negotiations involving the aggrieved person, the respondent, and the commission.

(D) The term "Conciliation Agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(E) The term "Commissioners" means any duly appointed member of the Human Relations Commission.

(F) The term "Director" means the Director of the Human Relations Commission.

(G) The term "Deputy Director" means a Deputy Director of the Human Relations Commission.

(H) The term "Dwelling" means:

(1) any building, structure, or part of a building or structure that is occupied as or designed or intended for occupancy as, a residency by one (1) or more families; or

(2) any vacant land that is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure described by subdivision (1).

(I) The term "Employer" includes the City of Gary and all governmental entities situated therein and any person employing six (6) or more persons within the city.

(J) The term "Employee" means any person employed by another for wages or salary; however, it does not include one employed by his parents, spouse, or child, or in the domestic service of any person.

(K) The term “Family” includes a single individual. Under this ordinance, a discriminatory act is committed because of familial status if the act is committed because the person who is the subject of discrimination is:

- (1) pregnant;
- (2) domiciled with an individual younger than eighteen (18) years of age in regard to whom the person:
 - (A) is the parent or legal custodian; or
 - (B) has the written permission of the parent or legal custodian for domicile with that person ; or
- (3) in the process of obtaining legal custody of an individual younger than 18 years of age.

(L) The term “Labor Organization” includes any organization which exists for the purpose, in whole or in part, for collective bargaining or for dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.

(M) The term “Employment Agency” includes any person undertaking with or without compensation to procure, recruit, refer or place employees.

(N) The term “Public Accommodation” means any establishment which caters or offers its services or facilities or goods to the general public.

(O) The term “Educational Institution” means any public or private school or training center except those affiliated with religious institutions, which may give preference to members of their religious group in selecting its students.

(P) The term “Owner” means any person having the right of ownership or possession or the right to sell, rent or lease any housing unit, including but not limited to a lessee, sub-lessee, assignee or managing agent.

(Q) The term “Real Estate Operator” means any individual or combination of individuals, labor unions joint apprenticeship committee, partnerships, associations, corporations, legal representatives, mutual companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, or other legal or commercial entity, or any governmental agency, branch or sub-division thereof, that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereon, including options or that derives incomes, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these.

(R) The term "Financial Institution" means banks, banking organizations, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these.

(S) The term "Complainant" means any individual charging on his own behalf to have been personally aggrieved by an unlawful discriminatory practice, or the director, deputy director, charging that an unlawful discriminatory practice was committed against a person or class of persons other than himself, or a class of people, in order to vindicate the public policy of the City of Gary, Indiana as referred to in Article II of this Ordinance.

(T) The term "Respondent" means:

- (1) the person accused of a violation of this article in a complaint of discrimination or
- (2) any person identified as an additional or a substitute respondent under IC22-9.5-6-4 or an agent of an additional or a substitute respondent.

(U) The term "Sex" as it applies to segregation or separation in this chapter shall apply to all types of employment, education, public accommodations and housing: Provided, however, that (1) it shall not be a discriminatory practice to maintain separate rest rooms or dressing rooms, and that (2) it shall not be a discriminatory practice for an employer to hire and employ employees, or for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer to employment any individual, or for an employer, labor organization, or joint labor management committee controlling apprenticeship or employ any individual in any such program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and that (3) it shall not be a discriminatory practice for a private or religious educational institution to continue to maintain and enforce a policy of admitting students of one sex only.

(V) The term "handicap" means with respect to a person:

- (1) a physical or mental impairment that substantially limits one (1) or more person's major life activities;
- (2) a record of having an impairment described above in subdivision (1); or
- (3) being regarded as having an impairment described above 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 (21 U.S.C. 802)
- (5) the term does not include an individual solely because that individual is a transvestite.

(W) “Discriminatory Housing Practice” means an act prohibited by this Ordinance.

(X) A reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

(Y) “AGGRIEVED PERSON” INCLUDES ANY PERSON WHO CLAIMS TO HAVE BEEN INJURED BY A DISCRIMINATORY HOUSING PRACTICE OR BELIEVES THAT SUCH PERSON WILL BE INJURED BY A DISCRIMINATORY HOUSING PRACTICE THAT IS ABOUT TO OCCUR.

ARTICLE 4. EXEMPTIONS

(a) This article does not prohibit a religious organization, an association, or a society or a nonprofit institution or an organization operated, supervised, or controlled by or in conjunction with a religious organization, an association, or a society from:

- (1) limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion; or
- (2) giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin.

(b) This article does not prohibit a private club not open to the public that, as an incident to the club’s primary purpose, provides lodging that the club owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to the members or from giving preference to the members, unless membership in the club is restricted because of race, color or national origin.

(c) As used in this section, “housing for older persons” means housing:

- (1) provided under any State or Federal program that HUD’s Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
- (2) intended for, and solely occupied by, persons 62 years of age or older; or
- (3) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary of the Department of Housing & Urban Development shall develop regulations, which require at least the following factors.
 - (i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons; or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and
 - (ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and
 - (iii) the publication of, and adherence to, policies and procedures, which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

The provisions of this Ordinance relating to familial status do not apply to housing for older persons.

(d) This section 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, handicap, familial status, or national origin.

(e) NOTHING IN THIS SUBSECTION LIMITS THE APPLICABILITY OF ANY REASONABLE LOCAL OR STATE RESTRICTIONS REGARDING THE MAXIMUM NUMBER OF OCCUPANTS PERMITTED TO OCCUPY A DWELLING.

(f) This section does not affect a requirement of non-discrimination in any other state or federal law.

ARTICLE 5. COMMISSION----CREATION----MEMBERSHIP

(A) There is hereby established in the City of Gary a Commission on Human Relations to carry out the provisions of this Ordinance. The Commission shall consist of Eleven (11) members. All members of the Human Relations Commission shall be appointed by the Mayor, subject to the advice and consent of the Common Council.

(B) All Commissioners appointed under the authority of Ordinance 4050 and whose terms have not expired by the effective date of this Ordinance, shall continue to serve for the terms of their appointment. Thereafter, the terms of service shall be four (4) years. Each member of the Commission shall continue to serve after his term until his successor is appointed.

(C) Upon the death or resignation of any member, a successor shall be appointed by the Mayor, subject to the advice and consent of the Common Council, to serve for the unexpired term of the member.

(D) The members of the Commission shall serve without compensation, but they may be reimbursed for all expenses necessarily incurred in the performance of their duties in accordance with appropriations made by the Common Council.

(E) Any member who is absent four (4) unexcused absences out of any eight (8) successive regular meetings may be removed from the Commission by a majority vote of the entire Commission.

ARTICLE 6. COMMISSION -----POWERS AND DUTIES

(A) The Commission shall elect one of its members as Chairman and may elect such other officers, as it may deem necessary. The Commission shall meet at least once each month and may hold special meetings as the Chairman deems necessary. Six (6) members of the Commission shall constitute a quorum for the transaction of business. No official action shall be taken by the Commission except by an affirmative vote of an absolute majority of a quorum of members of said Commission; provided that a majority of the entire Commission shall be required for a finding of violation of this Ordinance.

(B) The Commission shall appoint a Director, Deputy Director and such other personnel as may be authorized by the Mayor and subject to the advise and consent of the Common Council to assist the Commission in carrying out provisions of this Ordinance.

(C) To create subcommittees and advisory committees as in its judgment will aid in effectuating the purpose of this Ordinance.

(D) To gather and distribute information intended to improve human relations and achieve equal opportunity.

(E) To reduce tensions and prevent violence caused by breakdowns in relations between persons of various racial, ethnic and religious groups.

(F) To make studies appropriate to effectuate the purposes and policies of this chapter and to make the results thereof available to the public.

(G) To discourage any person from engaging in discriminatory practices by informal methods of persuasion and conciliation, to induce compliance with this act.

(H) To prevent any person from discharging, expelling or otherwise discriminating against any person because he filed a complaint or testified in any hearing before this Commission, or in any way assisted the Commission in any matter under its investigation.

(I) To investigate, conciliate and hear complaints, subpoena and compel the attendance of witnesses or production of pertinent documents and records, examine witnesses under oath or affirmation in findings and recommendations and issue cease and desist orders requiring remedial action.

The Commission shall have the power to institute actions for appropriate legal or equitable relief in a Circuit or Superior Court to obtain enforcement of any Commission order or subpoena. All subpoenas and orders emanating from the Commission, shall be served pursuant to the Indiana Rules of Civil Procedure applicable to service in civil actions, provided that no Commissioner shall take part in a hearing on a complaint in which said Commission is the complainant.

(J) To state its findings of fact after a hearing and, if the Commission finds a person has engaged in an unlawful discriminatory practice, it may cause to be served on such person an order requiring such person to cease and desist from the unlawful discriminatory practice and requiring such person to take further affirmative action as will effectuate the purpose of this act.

(K) If upon all the evidence the Commission shall find that a person has not engaged in any such unlawful practice or violation of this act, the Commission shall state its findings of facts and shall issue and cause to be served on the complainant an order dismissing the said complaint to such person.

(L) To reduce the terms of conciliation agreed to by the parties to a writing to be called a Consent Agreement, which the parties and a majority of the Commissioners shall sign. When so signed, the Consent Agreement shall have the same effect as a Cease and Desist order. If the Commission determines that a party to a Consent Agreement is not complying with it, the Commission may obtain enforcement of the Consent Agreement in a Circuit or Superior Court upon showing that the Party is not complying with the Consent Agreement and that the Party is subject to the Commissioner's jurisdiction and resides or transacts business with the City of Gary. CONCILIATION IN HOUSING CASES SHALL BE GOVERNED BY THE SPECIAL PROVISIONS OUTLINED IN ARTICLE 9, SECTION 5.

(M) To render from time to time, but not less than once a year, a written report of its activities and recommendations with respect to discriminatory practices to the Mayor and the Common Council.

(N) To solicit and receive donations, grants and collect fines and penalties to be used for the purpose of furthering the public policies stated in Article 2 of this Ordinance.

ARTICLE 7. UNLAWFUL DISCRIMINATORY PRACTICES

The exclusion of a person from failure or refusal to extend to a person equal opportunities because of race, color, creed, religion, sex, familial status, national origin, ancestry or handicap, or promotion of racial segregation in any manner, are hereby declared to be illegal. Unlawful discriminatory practices shall include, but not be limited to the following:

(A) Unlawful Housing Practices. It is an unlawful discriminatory practice for an individual, a real estate operator or an individual employed by or acting on behalf of any real estate operator:

- (1) TO REFUSE TO SELL, EXCHANGE, RENDOR OR LEASE OR OTHERWISE MAKE UNAVAILABLE OR DENY AN INDIVIDUAL ANY DWELLING BECAUSE OF HIS RACE, COLOR, CREED, RELIGION, SEX, FAMILIAL STATUS, NATIONAL ORIGIN, ANCESTRY OR HANDICAP;
- (2) to discriminate against an individual because of his race, color, creed, religion, sex, familial status, national origin, ancestry, or handicap in the terms, conditions, or privileges and the sale, exchange, rental, or lease of a dwelling or in the furnishing of facilities or services in connection therewith;

- (3) to refuse to receive or transmit a bona fide offer to purchase, rent, or lease any dwelling from an individual because of race, color, religion, familial status, sex, national origin, creed, ancestry or handicap;
- (4) to refuse to negotiate for the sale, rental or lease of any dwelling to an individual because of his race, color, religion, sex, familial status, national origin, creed, ancestry or handicap;
- (5) to represent to an individual that a dwelling is not available for inspection, sale, rental, or lease, when in fact it is so available, or to refuse to permit an individual to inspect a dwelling because of his race, color, religion, sex, familial status, national origin, creed, ancestry or handicap;
- (6) to print, circulate, post or mail or cause to be printed, circulated, posted or mailed an advertisement or sign or to use a form of application for the purchase, rental or lease of a dwelling, or to make a record of inquiry in connection with the prospective purchase, rental or lease of a dwelling, which indicates directly or indirectly a limitation, preference, specification, or discrimination as to race, sex, color, religion, national origin, familial status, creed, ancestry or handicap, or an intent to make such a limitation, specification or discrimination:
- (7) to offer, solicit, accept, use or retain a listing of a dwelling for sale, rental or lease with the understanding that an individual may be discriminated against in the sale, rental, or lease of the dwelling or in the furnishing of facilities or services in connection therewith because of his race, sex, color, religion, national origin, familial status, creed, ancestry or handicap, or
- (8) to otherwise deny or to withhold a dwelling from an individual because of his race, sex, color, religion, national origin, familial status, creed, ancestry, or handicap,

(9) the promotion of discriminatory segregation or separation in any manner, including but not limited to the inducing of, or the attempting to induce for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, familial status, color, sex, handicap, national origin or ancestry. Every discriminatory practice relating to the acquisition or sale of real estate, education, public accommodations, employment or the extending of credit as "credit" is defined in IC 24-4.5-301, shall be considered unlawful unless it is specifically exempted by this Ordinance.

(10) Refusing to provide municipal services or property, or hazard insurance for dwellings or providing such services or insurance differently because of race, color, religion, sex, handicap, familial status, or national origin.

(11) This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

(12)(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 section 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 a construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:
 - (A) the public use and common use parts of the the dwellings are readily accessible to and usable to handicapped persons;
 - (B) all the doors are designed to allow passage into and within all premises 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 subsection (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.

(3) compliance with the rules of the fire prevention and building safety commission that incorporates by reference the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people 675 I.A.C. 13-14 (ANSI A117.1) satisfy the requirements of subsection (c) (3) (C).

(4) this section does not require 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.

(13) (a) As used in this section, “residential real estate related transaction” means the following:

(1) Making or purchasing loans or providing other financial assistance:

(A) to purchase, construct, improve, repair, or maintain a dwelling; or

(B) to secure and SECURED BY residential real estate.

(2) Selling, brokering, or appraising dwellings.

(b) A person whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, sex, handicap, familial status, or national origin.

(14) A person may not deny any person access to, or membership or participation in, a multiple-listing service, real estate brokers’ organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in the terms or conditions of access, membership or participation in such an organization, service, or facility because of race, color, religion, sex, handicap, familial status, or national origin.

(15) A person may not coerce, intimidate, threaten, or interfere with any other person:

(1) in the exercise or enjoyment of any right granted or protected by this chapter; or

(2) because the person has exercised or enjoyed, or has encouraged another person in the exercise or enjoyment of, any right granted or protected by this chapter.

(B) Unlawful Financial Practices. It is an unlawful discriminatory practice for a financial institution or an individual employed by or acting on behalf of a financial institution:

(1) to discriminate against an individual because of the race, color, creed, religion, sex, national origin, familial status, ancestry, or handicap of the individual or the prospective owner, tenant or occupant of the real property or a member, stockholder, director, officer, employee, or representative of any of these, in the granting, withholding, extending, modifying or renewing, the rates, terms, conditions, privileges, or other provisions of financial assistance or in the extension of services in connection therewith; or

(1) to use a form of application for financial assistance which indicates directly or indirectly, a limitation, specification, or discrimination as to race, color, creed, familial status, religion, sex, national origin, ancestry, or handicap or an intent to make such a limitation, specification, or discrimination.

(C) Block Busting. It is an unlawful discriminatory practice for a real estate operator, a real estate broker, a real estate salesman, a financial institution, an employee of any of these, or any other person, for the purpose of inducing a real estate transaction from which he may benefit financially:

(1) to represent that a change has occurred or will occur in the composition with respect to race, color, creed, religion, familial status, sex, national origin, ancestry or handicap of the owners or occupants in the block, neighborhood, or area in which the real property is located; or

(2) to represent that this change will or may result in the lowering of property values, or a decline in the quality of schools in the block, neighborhood, or areas in which the real property is located.

(D)Employers Discrimination. It is an unlawful discriminatory practice for an employer:

(1) to fail or refuse to hire, or to discharge an individual, or otherwise to discriminate against an individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, national origin, creed, or ancestry.

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive an individual of employment or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, national origin, creed or ancestry.

(3) to refuse to hire or otherwise discriminate with respect to hire, tenure, terms, conditions or privileges of employment because of the sex of an individual or the handicap of any individual.

(4) it shall be unlawful for an employer to discriminate against an individual with a disability who can perform the essential functions of a job with reasonable accommodations.

(5) employers shall not be required to make reasonable accommodations if said accommodation creates an undue hardship.

(6) the enforcement of the provisions regarding discrimination on the basis of handicap in employment shall be governed by Equal Employment Opportunity for Individuals with Disabilities, 29 CFR Part 1630.

(E) Labor Organization, Discrimination. It is an unlawful discriminatory practice for a labor organization:

(1) to exclude or to expel from its membership, or otherwise to discriminate against, a member or applicant for membership because of his race, color, religion, national origin, creed, ancestry;

(2) to limit segregate, or classify its membership, or to classify or fail or refuse to refer for employment an individual, in any way which would deprive or tend to deprive an individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, national origin, creed, or ancestry.

(3) to cause or to attempt to cause an employer to discriminate against an individual in violation of this section.

(4) to discriminate against any individual or to limit, segregate or qualify its membership in any way which would tend to deprive such individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment or would affect adversely his wages, hours or employment conditions because of such individual's sex or handicap.

(F) Apprenticeship or Training, Discrimination. It is an unlawful discriminatory practice for an employer, labor organization or joint labor management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against an individual because of his race, color, religion, national origin, creed, ancestry or sex in admission to or employment in any program established to provide apprenticeship or other training.

(G) Employment Agencies, Discrimination. It is an unlawful discriminatory practice for an employment agency:

(1) to fail or refuse to refer for employment, or otherwise to discriminate against an individual because of his race, color, religion, national origin, creed or ancestry.

(2) to fail or refuse to classify properly, refer for employment or otherwise to discriminate against any individual because of his handicap or sex, except that any presently operating agency bearing a name, which directly or indirectly expresses or connotes any such limitation, specification or discrimination as to handicap, or sex, is excluded from this section.

(H) Unlawful Recruiting, Advertising and Hiring Practices. Except as permitted by paragraph G (2) of this section, it shall be unlawful for any employer, employment agency or labor organization prior to employment or admission to membership to:

(1) print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon handicap or sex;

(2) establish, announce or follow a policy of denying or limiting through a quota system or otherwise, employment or membership opportunities of any group because of the handicap or sex of a member of such group; and

(3) utilize in the recruitment or hiring of individuals any employment agency, placement service, training school or center, labor organization or any other employee referring source known by such person to discriminate against individuals because of their handicap or sex.

(I) Public Accommodations. It is an unlawful discriminatory practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation, resort or amusement, on the grounds of race, color, religion, sex, national origin, creed, ancestry or handicap.

(J) Educational Institutions. It is an unlawful discriminatory practice for any educational institution to deny admittance to any prospective student or enrollee, or to deny any service offered by such institution to any person, otherwise qualified for such service, on the ground of race, color, religion, sex, national origin, creed, ancestry or handicap.

(K) It is an unlawful practice for any person, including but not limited to any employer, employment agency, labor organization, educational institution, financial institution, or real estate operator to discharge, expel or penalize any individual in any manner in an investigation, proceeding or hearing under this Ordinance.

ARTICLE 8. PROCEDURE-ENFORCEMENT

(A) Except for a complaint concerning Housing discrimination, no complaint may be accepted by the Commission unless it substantially complies with the following requirements:

(1) the complaint must sufficiently show the full name and address of the complainant or the aggrieved person; the full name and the address of the person, employer, employment agency, labor organization, real estate operator, financial institution or education institution against whom the complaint is made; the alleged discriminatory practice and a statement of particulars thereof; the date or dates of the alleged discriminatory practice and if the alleged discriminatory practice is of a continuing nature, the dates between which said continuing acts of discrimination are alleged to have occurred; and a statement as to any other action, civil or criminal, instituted in any other form based upon the same grievance as is alleged in the complaint, together with a statement as to the status or disposition of such other action.

(2) the original complaint must be signed and verified before a notary public or any other person duly authorized by law to administer oaths and take acknowledgements.

(3) no complaint shall be valid unless filed within ninety (90) days from the day of the occurrence of the alleged discriminatory practice.

(B) The Commission shall make a prompt and full investigation of each complaint that is properly filed. The Commission may, by its Rules and Regulations, authorize such an investigation by an individual Commissioner, by any such staff members of the Commission as may be designated.

(C) If the Commission determines after investigation that probable cause exists for the allegations made in the complaint, it shall first attempt to eliminate the discriminatory practice by means of conciliation. The Commission shall not make

public the details of any conciliation and/ or consent agreement except when so authorized by the person against whom the complaint was made or when a party to the conciliation and/or consent agreement has not complied with the agreement.

(D) In any case of failure to eliminate the discriminatory practice charged in the complaint by means of conciliation or persuasion, the Commission shall hold a public hearing to determine whether or not an unlawful discriminatory practice has been committed. The Commission shall serve upon the person charged with having been engaged in or engaging in the unlawful discriminatory practice, hereinafter referred to as the Respondent, a statement of the charges made in the complaint and a notice of the time and place of the hearing. The hearing shall be held not less than fifteen (15) days after the service of the statement of charges. The Respondent shall have the right to file an answer to the statement of charges, to appear at the hearing in person or to be represented by an attorney or any other person, and to examine and cross-examine witnesses.

(E) If upon all the evidence presented, the Commission finds that the Respondent has not engaged in any unlawful discriminatory practice, it shall state its findings of fact and dismiss the complaint.

(F) If upon all the evidence presented, the Commission finds that the Respondent has engaged in unlawful discriminatory practices, it may cause to be served on such person an order requiring such person to take such further affirmative action as will effectuate the purpose of this Ordinance and may order the payment of actual damages. The damages that are found to be the result of discriminatory practices relating to employment shall be limited to lost wages, salaries, commissions or fringe benefits. If the Commission subsequently determines that the person upon whom the cease and desist order has been served is not complying with such order or is making no effort to comply with such order, the Commission may seek and obtain a decree of court for the enforcement of its order in the Circuit or Superior Court. Failure to comply with a Consent Agreement shall be considered as failing to comply with a cease and desist order.

(G) If it appears from the facts alleged in a properly filed complaint that there is a great probability of immediate and irreparable damage to the complainant as a result of the alleged discriminatory act, the Director or Deputy Director may immediately investigate such complaint and if upon the completion of such investigation, it appears that:

- (1) the facts allege a discriminatory practice that is the proper subject of a hearing by the Commission, and;

(2) the facts as alleged in the complaint are true, and;

(3) there is a great probability of immediate and irreparable harm to the complainant or aggrieved person, the Commission Chairman may authorize the institution of appropriate legal or equitable proceedings, an order to obtain immediate injunctive relief to protect and preserve the rights of the complainant or aggrieved person, pending a final hearing before the Commission to hear the complaint. All notice requirements heretofore prescribed shall also apply to any hearings held pursuant to this section.

(H) Complaints may be amended at any time prior to hearing, provided that no hearing may be held on an amended complaint within fifteen (15) days after the filing of such amended complaint and notice to the adverse party thereto.

(I) Any evidence may be introduced at any hearing on a complaint, provided that such evidence is relevant and material to the subject matter of said complaint. The Commission shall rule on all objections to the introduction of any evidence, provided that the Commission make a motion or rule, designate a member or members to so rule prior to the commencement of any hearing.

ARTICLE 9. HOUSING DISCRIMINATION COMPLAINTS

Sec. 1. (a) The Commission shall investigate alleged discriminatory Housing practices.

(b) A complaint concerning an alleged discriminatory housing practice must be

(1) in writing;

(2) under oath; and

(3) in the form prescribed by the Commission

(c) An aggrieved person may, not later than one (1) year after an alleged discriminatory housing practice has occurred or terminated whichever is later, file a complaint with the Commission alleging the discriminatory housing practice.

(d) Not later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, or whichever is later, the Commission may file the Commission's own complaint.

(e) A complaint under this section may be amended at any time.

(f) When a complaint is filed under this section, the Commission shall do the following:

- (1) Give the aggrieved person notice that the complaint has been received.
- (2) Advise the aggrieved person of the time limits and choice of forums under this article
- (3) Not later than twenty (20) days after the filing of the complaint or the identification of an additional respondent under Section 4 of this chapter, 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 article; and
 - (B) a copy of the original complaint.

- Sec. 2.
- (a) Not later than ten (10) days after receipt of the notice and copy under Section 1 (f) (3) of this chapter, a respondent may file an answer to the complaint.
 - (b) An answer must be:
 - (1) in writing;
 - (2) under oath; and
 - (3) in the form prescribed by the Commission
 - (c) An answer may be amended at any time.
 - (d) An answer does not inhibit the investigation of a complaint.

- Sec. 3.
- (a) If the federal government has referred a complaint to the Commission or has deferred jurisdiction over the subject matter of the complaint to the Commission, the Commission shall promptly investigate the allegations set forth in the complaint.
 - (b) The Commission shall COMMENCE THE INVESTIGATION of all complaints WITHIN THIRTY DAYS OF THE REFERRAL FROM THE FEDERAL GOVERNMENT AND, EXCEPT AS PROVIDED BY SUBSECTION (c), shall complete an investigation not later than one hundred (100) days after the date the complaint is filed UNLESS IT IS IMPRACTICABLE TO DO SO. Complete the investigation within the one hundred (100) day period, the Commission shall dispose of all administrative proceedings related to the investigation not later than one (1) year after the date the complaint is filed.
 - (c) If the Commission is unable to complete an investigation within the time periods prescribed by subsection (b), the commission shall notify the complainant and the respondent in writing of the reasons for the delay.

- Sec. 4. (a) The Commission may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation the Commission determines that the person should be accused of a discriminatory housing practice.
- (b) In addition to the information required in the notice under Section 1 (f) (3) of this chapter, the Commission shall include in a notice to the respondent joined under this section an explanation of the basis for the determination that the person is properly joined as a respondent.
- Sec. 5. (a) The Commission shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the Commission, to the extent feasible, engage in conciliation with respect to the complaint.
- (b) A conciliation agreement is an agreement between a respondent and the complainant and is subject to Commission approval.
- (c) A conciliation agreement may provide for binding arbitration or other methods of dispute resolution. Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.
- (d) A conciliation agreement shall be made public unless the complainant and respondent agree otherwise and the Commission determines that disclosure is not necessary to further the purposes of this article.
- (e) Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned.
- (f) After completion of the Commission's investigation, the Commission shall make available to the aggrieved person and the respondent, at any time, information derived from the investigation and the final investigation report relating to that investigation.
- Sec. 6. (a) If the Commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this article, the Commission may file a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint in a circuit or superior court that is located in the county in which the alleged discriminatory housing practice occurred. This remedy shall be available in cases filed under the housing provisions only.

(b) A temporary restraining order or other order granting preliminary or temporary relief under this section is governed by the Indiana Rules of Trial Procedure.

(c) The filing of a civil action under this section does not affect the initiation or continuation of administrative proceedings under Section 14 of this chapter.

Sec. 7. (a) The Commission shall prepare a final investigative report showing the following:

(1) The names and dates of contacts with witnesses.

(2) A summary of correspondence and other contacts with the aggrieved person and the respondent showing the dates of the correspondence and contacts.

(3) A summary description of other pertinent records.

(4) A summary of witness statements.

(5) Answers to interrogatories.

(b) A final report under this section may be amended if additional evidence is discovered.

Sec. 8. (a) The Commission shall determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur.

(b) The Commission shall make the determination Order subsection (a) not later than one hundred (100) days after the date a complaint is filed unless:

(1) it is impracticable to make the determination; or

(2) the Commission has approved a conciliation agreement relating to the complaint

(c) if it is impracticable to make the determination within the time period provided by subsection (b), the Commission shall notify the complainant and respondent in writing of the reasons for the delay.

(d) If the Commission determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall immediately issue a finding of reasonable cause on behalf of the aggrieved person.

Sec. 9. (a) A charge issued under Section 8 of this chapter:

(1) must consist of a short and plain statement of the facts on which the Commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

- (2) must be based on the final investigative report; and
- (3) need not be limited to the facts or grounds alleged in the complaint

(c) Not later than twenty (20) days after the Commission issues a finding of reasonable cause, the Commission shall send a copy of the finding of reasonable cause with information concerning the election under Section 12 of this chapter to the following:

- (1) Each respondent, together with a notice of the opportunity for a hearing provided by Section 14 of this chapter.
- (2) Each aggrieved person on whose behalf the complaint was filed.

Sec. 10. (a) If the Commission determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall promptly dismiss the complaint.

(b) The Commission shall make public disclosure of each dismissal under this section.

Sec. 11. The Commission may not issue a finding of reasonable cause under this chapter regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing practice.

Sec. 12. (a) A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claim asserted in a finding of reasonable cause decided in a civil action as provided by Section 13 of this chapter.

(b) The election must be made not later than twenty (20) days after the date of receipt by the election person of service under Section (9) (b) of this chapter or, in the case of the Commission, not later than twenty (20) days after the date the finding of reasonable cause was issued.

(c) The person making the election shall give notice to the Commission and to all other complainants and respondents to whom the finding of reasonable cause relates.

Sec. 13. (a) If a timely election is made under Section 13 of this chapter The Commission at its expense shall provide counsel for the aggrieved person and not later than thirty (30) days after the

election is made, file a civil action on behalf of the aggrieved person seeking relief under this section in a circuit or superior court that is located in the county in which the alleged discriminatory housing practice occurred.

(b) An aggrieved person may intervene in the action.

(c) If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief that a court may grant in a civil action under IC 22-9.5-7.

(d) If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court may not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the court.

Sec. 14. (a) If a timely election is not made under Section 12 of this chapter, the Commission shall provide the aggrieved person with counsel and set a date for a hearing on the finding of reasonable cause.

(b) Except as provided by subsection (c), Rules 11, 12 and 13 of the Gary Human Relations Commission govern a hearing and an appeal of a hearing under this section.

(c) A hearing under this section may not continue regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved person under federal or state law seeking relief with respect to that discriminatory housing practice.

Sec. 15. (a) If the Commission determines at a hearing under Section 14 of this chapter that a respondent has engaged in or is about to engage in a discriminatory housing practice, the Commission may order the appropriate relief, including actual damages, reasonable attorney's fees, court costs and other injunctive or equitable relief.

(b) To vindicate the public interest, the Commission may assess a civil penalty against the respondent in an amount that does not exceed the following:

(1) Ten thousand dollars (\$10,000) if the respondent has not been adjudged by order of the Commission or a court to have committed a prior discriminatory housing practice.

(2) Except as provided by subsection (c), twenty-five thousand dollars (\$25,000) if the respondent has been adjudged by order of the Commission or a court to have committed one (1) other discriminatory housing practice during the five (5) year period ending on the date of the filing of the finding of reasonable cause.

(3) Except as provided by subsection (a), fifty thousand dollars (\$50,000) if the respondent has been adjudged by order of the Commission or a court to have committed two (2) or more discriminatory housing practices during the seven (7) year period ending on the date of the filing of the finding of reasonable cause.

(c) If the acts constituting the discriminatory housing practice that is the object of the finding of reasonable cause are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties in subsection (b) (2) and (b) (3) may be imposed without regard to the period of time within which any other discriminatory housing practice occurred.

(d) The Commission may sue to recover a civil penalty due under this section.

Sec. 16. A Commission order under Section 16 of this chapter does not affect a contract, a sale, an encumbrance, or a lease, that:

(1) was consummated before the Commission issued the order; and

(2) involved a bona fide purchaser, an encumbrancer, or a tenant who did not have actual notice of the finding of reasonable cause filed under this article.

Sec. 17. If the Commission issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the Commission shall, not later than thirty (30) days after the date of the issuance of the order:

(1) send copies of the findings and the order to the governmental agency; and

(2) recommend to the government agency appropriate disciplinary action.

Sec. 18. If the Commission issues an order against a respondent against whom another order was issued within the preceding five (5) years under Section 15 of this chapter, the Commission shall send a copy of each order issued under that section to the attorney general.

ARTICLE 10. FAIR HOUSING FUND

Sec. 1. The fair housing fund (hereafter referred to as “the fund”) is established. The fund shall be administered by the Commission.

Sec. 2. Money deposited in the fund may be used only for administering this ordinance. Money in the fund does not revert to the city general fund at the end of a city fiscal year.

Sec. 3. Gifts and grants received as authorized by this ordinance shall be deposited to the credit of the fund.

Sec. 4. A court in a civil action brought under Article 8, or the Commission in an administrative hearing may award reasonable attorney’s fees to the prevailing party and assess court costs against the non-prevailing party.

ARTICLE 11. ENFORCEMENT BY PRIVATE PERSONS

Sec. 1. (a) An aggrieved person may file a civil action in the circuit or superior court located in the county in which the alleged discriminatory practice occurred not later than one (1) year after the occurrence of the termination of an alleged discriminatory housing practice or the breach of a conciliation agreement entered into under this article, whichever occurs last, to obtain appropriate relief with respect to the disciplinary housing practice or breach.

(b) The one (1) year period does not include any time during which an administrative hearing under this article is pending with respect to a complaint or finding of reasonable cause under this article based on the discriminatory housing practice. The subsection does not apply to actions arising from a breach of a conciliation agreement.

(c) An aggrieved person may file an action under this section whether or not a complaint has been filed under IC 22-9.5-6 and without regard to the status of any complaint filed under IC 22-9.5-6.

(d) If the Commission has obtained a conciliation agreement with the consent of an aggrieved person, the aggrieved person may not file an action under this section with respect to the

alleged discriminatory housing practice that forms the basis for the complaint except to enforce the terms of the agreement.

(e) An aggrieved person may not file an action under this section with respect to an alleged discriminatory housing practice that forms the basis of a finding of reasonable cause issued by the Commission if the Commission has begun a hearing on the record under this article with respect to the finding of reasonable cause.

- Sec. 2. If the court finds that a discriminatory housing practice has occurred or is about to occur in an action under this chapter, the court may award to the prevailing party the following:
- (1) Actual and punitive damages
 - (2) Reasonable attorney's fees
 - (3) Court costs
 - (4) Subject to Section 3 of this chapter, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.
- Sec. 3. Relief granted under this chapter does not affect a contract, a sale, an encumbrance, or a lease that:
- (1) was consummated before the granting of the relief; and
 - (2) involved a bona fide purchaser, an encumbrancer, or a tenant who did not have actual notice of the filing of a complaint or a civil action under this article.
- Sec. 4. (a) The Commission may intervene in an action under this article if the Commission determines that the case is of general public importance.
- (b) The Commission may obtain the same relief available to the Commission under IC 22-9.5-8-1(b)

ARTICLE 12. ENFORCEMENT BY COMMISSION

- Sec. 1. (a) The Commission may file a civil action for appropriate relief if the Commission has reasonable cause to believe that:
- (1) a person is engaged in a pattern or practice of resistance to the full enjoyment of any right granted by this article; or

(2) a person has been denied any right granted by this article and that denial raises an issue of general public importance.

An action under this section may be filed in a circuit or superior court located in the county in which the alleged pattern, practice, or denial occurred.

(b) In an action under this section, the court may do the following:

(1) Award preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this article as necessary to assure the full enjoyment of the rights granted by this article.

(2) Award other appropriate relief, including monetary damages, reasonable attorney's fees, and court costs.

(3) To vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed the following:

(A) Fifty thousand dollars (\$50,000) for a first violation

(B) One hundred thousand dollars (\$100,000) for a second or subsequent violation.

(C) a person may intervene in an action under this action if the person is:

(1) an aggrieved person to the discriminatory housing practice; or

(2) a party to a conciliation agreement concerning the discriminatory housing practice.

Sec. 2. The attorney, on behalf of the Commission or other party at whose request a subpoena is issued under this chapter, may enforce the subpoena in appropriate proceedings in the court in which the action is filed.

ARTICLE 13. PENDING SUITS. This Ordinance shall not be construed or held to repeal a former Ordinance whether such former Ordinance is expressly repealed or not, as to any act done, any penalty forfeiture or punishment so incurred or any right accrued or claim arising before the new Ordinance takes effect, save only that the proceedings thereafter shall conform to the Ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new Ordinance, such provision may be, by the consent of the part affected, applied to any judgment announced after the new Ordinance takes effect.

Nothing contained in this or the preceding section shall be construed as abating any action now pending under or by virtue of any general Ordinance of the City herein repealed; or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any Ordinance or provision thereof in force at the time of passage of this Ordinance.

ARTICLE 14. SEVERABILITY. Each section and each provision or requirement of any section of this Ordinance shall be considered separable and the invalidity of any portion of enforceability of any other portion.

ARTICLE 15. REPEAL. All Ordinances in conflict, herewith, are hereby repealed.

ARTICLE 16. EFFECTIVE DATE. The effective date of this Ordinance shall be immediately upon its passage and publication according to law.

