

**TOWN OF WESTPORT, INDIANA
FAIR HOUSING ORDINANCE**

General Ordinance 1996-1

WHEREAS, in accordance with the Civil Rights Act of 1968, as amended, the Housing and Community Development Act of 1974, as amended, and Indiana Code 22-9.5-1, et. seq., the following provisions are necessary and appropriate to prevent discrimination in the area of housing because of race, color, religion, sex, handicap, familial status or national origin;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE TOWN OF WESTPORT, INDIANA, AS FOLLOWS:

Section 1. POLICY STATEMENT:

It shall be the policy of the Town of Westport 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 Indiana Code 22-9.5-1 et. seq.

Section 2. DEFINITIONS:

The definitions set forth in this Section shall apply throughout this Ordinance:

- (a) "Dwelling" means 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 [1] or more families, and 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 [1] or more families [I.C. 22-9.5-2-8).
- (b) "Family" includes a single individual [I.C. 22-9.5-2-9), with the status of such family being further defined in subsection [h] of this Section.
- (c) "Person" [I.C. 22-9.5-2-11] includes one [1] or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.
- (d) "To rent" [I.C. 22-9.5-2-13] includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises owned by the occupant.
- (e) "Discriminatory Housing Practice" means an act that is unlawful under Sections, 4, 5, 6, 7 or 8 of this Ordinance or I.C. 22-9.5-5.
- (f) "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,

- (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
- (a) All dwellings except as exempted by subsection (b) and Title 22-9.5-3 of Indiana Code.
- (b) Other than the provisions of subsection (c) of this Section, nothing in Section 4 shall apply to:

Subject to the provisions of subsection (b) of this Section, Section 9 of this Ordinance and Title 22-9.5-3 of Indiana Code, the prohibitions against discrimination in the sale or rental of housing set forth Title 22-9.5-5-1 of the Indiana Code and in Section 4 of this Ordinance shall apply to:

Section 3. UNLAWFUL PRACTICE:

- (i) "Commission" [I.C. 22-9.5-2-3] means the Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4, et. seq.
- (j) "Complainant" [I.C. 22-9.5-2-4] means a person, including the Commission, who files a complaint under I.C. 22-9.5-6.

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

- (1) a parent or another person having legal custody of such individual or the written permission of such parent or other person.
- (h) "Familial status" means one or more individuals [who have not attained the age of 18 years] being domiciled with:
 - (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.
- (g) "Aggrieved person" includes any person who [I.C. 22-9.5-2-2]:

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 [I.C. 22-9.5-2-10(b)]; or does the term "handicap" include an individual solely because that individual is a transvestite [I.C. 22-9.5-2-10(c)].

- (5) Any other impairment defined under I.C. 22-9.5-2-10.
- (4) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990.
- (3) being regarded as having such an impairment.
- (2) a record of having such an impairment, or

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 twenty-four 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 salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person and
 - (B) without the publication, posting or mailing, after notice of advertisement or written notice in violation of section 4(c) of this ordinance, but nothing in this proviso 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 subsection (b), a person shall be deemed to be in the business of selling or renting dwellings if:
- (1) he has, within the preceding twelve 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 twelve 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.

Section 4. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING:

As made applicable by section 3 and except as exempted by sections 3(b) and 9, 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, 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 preference, limitation, or

- discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make 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 prospective 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 sold, rented or made available; or
- (C) any person associated with that person.
- (3) For purpose 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 the permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
- (B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford 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 --

- (i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
- (ii) 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
- (iii) 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 Americans With Disabilities Act of 1990 and the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117-1") suffices to satisfy the requirements of paragraph (3)(C)(iii).
- (5) Nothing in this subsection 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 of whose tenancy would result in substantial physical damage to the property of others.

Section 5. 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) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding 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 subsection (a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned for not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

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

(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):

(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:

(a) any person because of his 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

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:

Section 8. PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES:

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 sections 3, 4, 5, or 6 of this ordinance.

Section 7. INTERFERENCE, COERCION OR INTIMIDATION:

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, handicap, familial status or national origin.

Section 6. DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES:

(c) Nothing in this ordinance 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.

Section 9. EXEMPTION:

- (a) Exemptions defined or set forth under Title 22-9.5-3 et. seq. of Indiana Code shall be exempt from the provisions of this Ordinance to include those activities or organizations set forth under subsections (b) and (c) of this Section.
- (b) Nothing in this ordinance 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 ordinance 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 ordinance 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.

Section 10. ADMINISTRATION ENFORCEMENT OF ORDINANCE:

- (a) The authority and responsibility for properly administering this Ordinance and referral of complaints hereunder to the Commission as set forth in subsection (b) hereof shall be vested in the Chief Executive Officer of the Town of Westport, Indiana.
- (b) Notwithstanding the provisions of I.C. 22-9.5-4-8, the Town of Westport, Indiana, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this Ordinance, herein elects to refer all formal complaints of violation of the articles of the Ordinance by Complainants to the Indiana Civil Rights Commission ("Commission") for administrative enforcement actions pursuant to Title 22-9.5-6 of Indiana Code and the Chief Elected Officer of the Town of Westport, Indiana, shall refer all said complaints to Commission as provided for under subsection (a) of this Section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under Title 22-9.5-6 of Indiana Code.
- (c) All executive departments and agencies of the Town of Westport, Indiana, shall administer their departments, programs and activities relating to housing and urban development in a manner

Date: 3/11/96
 Name: Barbara Hayden
 Attest: *Barbara Hayden*

Title: President of Town Council

Name: Clifford Byard

By: *Clifford D. Byard*
 Presiding Officer

It is hereby certified that this Ordinance Number _____ was passed by the Common Council of the Town of Westport, Indiana, at its legally convened meeting of _____.

CERTIFICATION OF ADOPTION

If any provision of this Ordinance or the application thereof to any person or circumstances shall be determined to be 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.

Section 11. SEPARABILITY OF PROVISIONS:

(d) The Chief Executive Officer of the Town of Westport, Indiana, or the Chief Executive Officer's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

affirmatively to further the purposes of this Ordinance and shall cooperate with the Chief Executive Officer and the Commission to further such purposes.

UNITED STATES DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION

EQUAL OPPORTUNITY AGREEMENT

This agreement, dated March 10, 1986 between

Town of Westport, Indiana

(herein called "Recipient" whether one or more) and the Farmers Home Administration, United States Department of Agriculture, pursuant to the rules and regulations of the Secretary of Labor (herein called the "Secretary") issued under the authority of Executive Order 11246, as amended, witnesseth:

In consideration of financial assistance (whether by a loan, grant, loan guaranty, or other form of financial assistance) made or to be made by the Farmers Home Administration to Recipient, Recipient hereby agrees, if the cash cost of construction work performed by Recipient or a construction contract financed with such financial assistance exceeds \$10,000—unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965.

1. To incorporate or cause to be incorporated into any contract for construction work, or modification thereof, subject to the relevant rules, regulations, and orders of the Secretary or of any prior authority that remain in effect, which is paid for in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":

During the performance of this contract, the contractor agrees as follows:

- (a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited, to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Farmers Home Administration setting forth the provisions of this nondiscrimination clause.
- (b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Farmers Home Administration, advising the said labor union or workers' representative of the contractor's commitments under this agreement as required pursuant to section 202(3) of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (d) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of all rules, regulations and relevant orders of the Secretary of Labor and of any prior authority which remain in effect.
- (e) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, rules, regulations, and orders, or pursuant thereto, and will permit access to his books, records, and accounts by the Farmers Home Administration, Office of Equal Opportunity, U. S. Department of Agriculture, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (f) In the event of the contractor's noncompliance with the Equal Opportunity (Federally Assisted Construction) clause or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government Contracts or Federally Assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as provided by Law.
- (g) The contractor will include the provisions of this Equal Opportunity (Federally Assisted Construction) clause in every subcontract or purchase order, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each such subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Farmers Home Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Farmers Home Administration, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

2. To be bound by the provisions of the Equal Opportunity Clause in construction work performed by Recipient and paid for in whole or in part with the aid of such financial assistance.

3. To notify all prospective contractors to file the required 'Compliance Statement', Form FHA 400-6, with their bids.

4. Form AD-425, Instructions to Contractors, will accompany the notice of award of the contract.

Bid conditions for all nonexempt Federal and Federally assisted construction contracts require inclusion of the appropriate "Hometown" or "Imposed" plan affirmative action and equal employment opportunity requirements. All bidders must comply with the bid conditions contained in the invitation to be considered responsible bidders and hence eligible for the award.

5. To assist and cooperate actively with the Farmers Home Administration and the Secretary in obtaining the compliance of contractors and subcontractors with the provisions of the Equal Opportunity Clause and the said rules, regulations, and orders, to obtain and furnish to the Farmers Home Administration and the Secretary, Form AD-560, Certification of Nonsegregated Facilities, to submit the Monthly Manpower Utilization Report, Optional Form 66, as required and such other information as they may require for the supervision of such compliance, and to otherwise assist the Farmers Home Administration in the discharge of its primary responsibility for securing compliance.

6. To refrain from entering into any contract, or extension or other modification of a contract, subject to such Executive Order with a contractor debarred from Government contracts or federally assisted construction contracts pursuant to Part II, Subpart D, of such Executive Order or to prior authority; and to carry out such sanctions and penalties for violation of the provisions of the Equal Opportunity Clause as may be imposed upon contractors and subcontractors by the Farmers Home Administration or the Secretary pursuant to such Subpart D.

7. That if Recipient fails or refuses to comply with these undertakings, the Farmers Home Administration may take any or all of the following actions: (a) cancel, terminate, or suspend said financial assistance in whole or in part; (b) refrain from extending any further assistance under the program involved until satisfactory assurance of future compliance has been received from Recipient; and (c) refer the case to the Office of Equal Opportunity, U. S. Department of Agriculture for appropriate action.

Witness the due execution hereof by Recipient on this, the date first above written.

Recipient

Recipient

Town of Westport, Indiana

(CORPORATE SEAL)

Name of Corporate Recipient

Attest:

Virginia Allen

Virginia Allen Secretary
Clerk-Treasurer

By

Paul E. Johnson

Paul Johnson, President,
Board of Trustees

