Ordinances Governing

THE FAIR HOUSING CODE

in the

CITY OF ARLINGTON

TEXAS

Amended by Ordinance No. 06-082

(August 22, 2006)

(Chapter Designator: FAIR HOUSING)

ORDINANCE HISTORY

Number	Date of Adoption	Comments
95-16	02/14/95	Repeal of the existing "Fair Housing" Chapter in its entirety and the adoption of a new "Fair Housing" Chapter
04-006	01/13/04	Amend **Article I**, General Provisions, **Section 1.02**, Definitions, relative to the definition of "Fair Housing Officer."
06-082	08/22/06	Amend **Article I**, General Provisions, **Section 1.02**, Definitions, at the definition of "Fair Housing Officer", relative to updating the reference to the Community Services Department.

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ARTICLE I

GENERAL PROVISIONS

Section 1.01 Declaration of Policy

It is hereby declared to be the policy of the City of Arlington to promote, through fair, orderly and lawful procedures, the opportunity for each person to obtain housing without regard to his/her race, color, religion, national origin, sex, disability or familial status. This policy is grounded upon a recognition of the right of every person to have access to adequate housing of his/her own choice without regard to race, color, religion, national origin, sex, disability or familial status. Further, this policy is based upon a recognition that the denial of such rights through considerations based upon race, color, religion, national origin, sex, disability or familial status is detrimental to the health, safety and welfare of the inhabitants of the City of Arlington and constitutes an unjust denial or deprivation of an inalienable right which is within the power and the proper responsibility of government to prevent.

Section 1.02 Definitions

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Aggrieved person" - Includes any person who:

1. Claims to have been injured by a discriminatory housing practice; or

2. Believes that he/she will be injured by a discriminatory housing practice that is about to occur.

"Complainant" - A person, including the Fair Housing Officer for the City of Arlington, who files a complaint under Section 1.10 of this Chapter.

"Disability" - With respect to a person:

1. A physical or mental impairment which substantially limits one (1) or more of such person's major life activities;

2. A record of having such an impairment; or

3. Being regarded as having such an impairment;

but such term does not include current, illegal use of or addiction to a controlled substance as defined under state or federal law.

"Discriminatory Housing Practice" - An act prohibited by Section 1.03 of this Chapter.

"Dwelling" -

1. 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; 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 in Subparagraph (1) immediately above.

"Fair Housing Act" - The federal Fair Housing Act, 42 U.S.C. § 3601, et seq, as amended, (1977 & Supp. 1994).

"Fair Housing Officer" (FHO) - The Director of Community Services or his designated representative authorized to administer the provisions of this Chapter. (Amend Ord 06-082, 8/22/06)

"Familial Status" - The status of a person resulting from being:

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;

b. Has the written permission of the parent or legal custodian for domicile with that person; or

c. Is in the process of obtaining legal custody of any individual younger than eighteen (18) years of age.

"Family" - Includes a single individual.

"Person" - Includes 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 11, receivers and fiduciaries.

"Respondent" - The person or other entity accused in a complaint of an unfair housing practice.

"Secretary" - The Secretary of the United States Department of Housing and Urban Development.

"To Rent" - To lease, to sublease, to let or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

Section 1.03 <u>Discrimination Prohibited</u>

A. <u>Sale or Rental of Housing</u>. A person engages in a prohibited discriminatory act if because of race, color, religion, sex, disability, familial status or national origin, he/she:

1. Refuses to sell or to rent after the making of a bona fide offer; or

2. Refuses to negotiate for the sale or rental of, or otherwise makes unavailable or denies a dwelling to a person; or

3. Discriminates 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.

B. Sale or Rental of Housing - Discrimination Based on Disability.

1. A person engages in a prohibited discriminatory act if he/she discriminates in the sale or rental, or otherwise makes unavailable or denies, a dwelling to any buyer or renter because of a disability of:

   a. That buyer or renter;

   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 buyer or renter.

2. For purposes of this subsection, discrimination includes:

   a. A refusal to permit, at the expense of the person with a disability, 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, 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; or

   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.

3. Nothing in this Chapter shall be construed to invalidate or limit any ordinance of the City of Arlington from requiring dwellings to be designed

and constructed in a manner that affords persons with disabilities greater access than is required by this Chapter.

4. 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 or whose tenancy would result in substantial physical damage to the property of others.

C. Other Prohibited Discriminatory Acts.

1. Publication. A person may not 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, disability, familial status or national origin, or an intention to make such a preference, limitation or discrimination.

2. Inspection. A person may not, because of race, color, religion, sex, disability, familial status or national origin, represent to any person that a dwelling is not available for inspection, sale or rental when the dwelling is available for inspection, sale or rental.

3. Entry into neighborhood. A person may not, for profit, induce or attempt to induce, a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, sex, disability, familial status or national origin.

4. Residential real estate related transactions.

a. 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, disability, familial status or national origin.

b. In this section, "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, construction, improving, repairing or maintaining a dwelling; or

(b) Secured by residential real estate;

(2) The selling, brokering or appraising of residential real property.

5. Brokerage services. 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, disability, familial status or national origin.

Section 1.04 Exemptions; Exclusions

A. Certain Sales and Rentals Exempted.

1. The following transactions are exempt from all provisions of Section 1.03, except Section 1.03(C)(1):

a. The sale or rental of a single-family house sold or rented by an owner is exempt if:

(1) The owner does not:

(a) Own more than three (3) single-family houses at any one (1) time; or

(b) Own any interest in, nor is there owned or reserved on his/her behalf, under any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three (3) single-family houses at any one (1) time; and

(2) The house was sold or rented without:

(a) The use in any manner of the sales or rental facilities or the sale or rental services of a real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman or person; and

(b) such house is sold or rented without the publication, posting or mailing, after notice, of any advertisement or written notice, of any advertisement or written notice in violation of Section 1.03(C)(1) of this Chapter.

b. The exemption of Section 1.04(A)(1)(a) shall exempt only one (1) such sale within any twenty-four (24) month period where:

(1) a single-family house is sold by a private individual owner:

(a) who did not reside in the house at the time of the sale; or

(b) who was not the most recent resident of the house prior to sale.

c. The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other is exempt if the owner actually maintains and occupies one (1) of the living quarters as the owner's residence.

2. Nothing in this section shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer title.

B. Business of Selling or Renting Dwellings Defined.

For the purpose of this section, a person shall be deemed to be in the business of selling or renting dwellings if:

1. He/she has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or

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

3. He/she is the owner of any dwelling designed or intended for occupancy by, or occupied by five (5) or more families.

Section 1.05 Housing for Elderly Exempted

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

B. In this section, "housing for older persons" means:

1. Housing provided under any state or federal program that the Secretary of HUD determines is specifically designed and operated to assist elderly persons, as that term is defined in the state or federal program; or

2. Housing intended for, and solely occupied by persons sixty-two (62) years of age or older; or

3. Housing intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older per unit. As determined by regulations developed by the Secretary of HUD, the following minimum requirements must be present for the dwelling(s) to qualify as housing for older persons:

   a. 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

   b. That at least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and

   c. The publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

C. Housing shall not fail to meet the requirements for classification as housing for older persons by reason of:

1. The presence of persons residing in such housing who do not meet the age requirements of Subsections 1.05(B)(2) or (3) and who were in

residence as of September 13, 1988. New occupants of such housing must meet the age requirements of Subsections 1.05(B)(2) or (3); or

2. The presence of unoccupied units where such units are reserved for occupancy by persons who meet the age requirements of Subsections 1.05(B)(2) or (3).

Section 1.06 <u>Religious Organization, Nonprofit Organization and Private Club Exemption</u>

A. This Chapter does not prohibit a religious organization, association or society, or a nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or 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.

Section 1.07 <u>Appraisal Exemption</u>

This Chapter does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, disability, familial status or national origin.

Section 1.08 <u>Effect On Other Law</u>

A. This Chapter does not affect any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling or relating to health or safety standards.

B. This Chapter does not affect any requirement of nondiscrimination in any other local, state or federal law.

Section 1.09 Fair Housing Officer

A. Duties. It shall be the duty of the City's Fair Housing Officer (FHO) to implement the provisions of this Chapter and to facilitate compliance with its provisions. The FHO shall perform this duty in accordance with the policy directives of the City Council, and may recommend rules and regulations to aid in the implementation and facilitation of the Fair Housing Policy of the City of Arlington, such rules and regulations being subject to the approval of the City Council.

B. Cooperation with State and Federal Agencies

1. The Fair Housing Officer is encouraged to cooperate with the Secretary of Housing and Urban Development and the Attorney General of the United States in the enforcement of the Fair Housing Act of 1968, 42 U.S.C. §3601, et seq., as amended, and may assist the Secretary or Attorney General in any way consistent with the policy of this Chapter.

2. The Fair Housing Officer is encouraged to cooperate with the Texas Commission on Human Rights in the enforcement of the Texas Fair Housing Act, and may assist the Texas Commission on Human Rights in any way consistent with the policy of this Chapter.

Section 1.10 Complaint

A. A complaint must be in writing, made under oath or affirmation and contain the following information:

1. Name and address of the respondent.

2. Name, address and signature of the complainant.

3. Name and address of the aggrieved person, if different from the complainant.

4. Date of the occurrence or termination of the discriminatory housing practice and date of the filing of the complaint.

5. Description and address of the housing accommodation involved in the discriminatory housing practice, if appropriate.

6. Concise statement of the facts of the discriminatory housing practice, including the basis of the discrimination (race, color, sex, religion, disability, familial status or national origin).

Section 1.11 <u>Filing of Complaint</u>

A. An aggrieved person, or any authorized representative of an aggrieved person, may file a complaint with the Fair Housing Officer no later than one (1) year after an alleged discriminatory housing practice has occurred or terminated.

B. A complaint may be filed by the FHO with the Department of Housing and Urban Development no later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, if the FHO has reasonable cause to believe that a person has committed a discriminatory housing practice.

C. Upon the filing of a complaint, the FHO shall, in writing:

1. Notify the complainant and the aggrieved person, if different from the complainant, that a complaint has been filed; and

2. Advise the complainant and the aggrieved person, if different from the complainant, of time limits applicable to the complaint and of any rights,

obligations and remedies of the aggrieved person under this Chapter.

Section 1.12 Role of Fair Housing Officer

Upon the receipt of information from any person attempting to obtain housing within the City of Arlington that a discriminatory act or practice has occurred, the Fair Housing Officer may provide the complainant with information and assistance in the filing of a discrimination complaint as requested by such aggrieved person.

Section 1.13 Additional Remedies

The procedures prescribed by this Chapter do not constitute an administrative prerequisite to another action or remedy available to the City or to an aggrieved person under federal or state law. An aggrieved person may seek a private enforcement remedy as allowed by Section 3613 of the Fair Housing Act.

Section 1.14 Effect of Civil Action on Certain Contracts

Relief granted under Section 1.13 does not affect a contract, sale, encumbrance or lease that:

A. Was consummated before the granting of the relief; and

B. Involved a bona fide purchaser, encumbrancer or tenant who did not have actual notice of the filing of a complaint under this Chapter or a civil action filed under the authority of the Fair Housing Act.

Section 1.15 Education and Public Information

The Fair Housing Officer may conduct educational and public information activities that are designed to promote the policy of this Chapter.

Section 1.16 <u>Interference with Exercise of Rights Unlawful</u>

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his/her having exercised or enjoyed, or on account of his/her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this Chapter, including the giving of testimony or provision of information in aid of investigation or discovery under this Chapter.

Section 1.17 <u>Criminal Penalties For Violation</u>

A. A person who violates a provision of Section 1.03 of this Chapter commits a misdemeanor criminal offense. A person is guilty of a separate offense for each day or part of a day during which a violation is committed, continued or permitted.

B. A criminal offense under this Chapter is punishable in Municipal Court. An offense is punishable by fine only, and the amount of fine assessed shall not exceed **Five Hundred Dollars ($500)**.

Section 1.18 <u>Severability of Provisions</u>

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