

ORDINANCE NO. 19-49

BY: Nancy Moore

Amending Sections 515.01 through 515.05 of Chapter 515, "Fair Housing," in the Business Regulation Code of the Codified Ordinances, in order to update and make the Chapter consistent with the language and protections of new Chapter 516 entitled "Discrimination Prohibitions in Employment and Public Accommodations."

WHEREAS, this Council most recently adopted Sections 515.01, 515.02, 515.03, 515.04, and 515.05 of the Business Regulation Code of the Codified Ordinances in Ordinance 06-20, enacted on February 27, 2006; and

WHEREAS, the City has, since 1992, maintained and enforced prohibitions against housing discrimination through Chapter 515 of the Codified Ordinances by actively engaging in education, outreach, and complaint investigation and resolution; and

WHEREAS, the City desires to expand its anti-discriminatory provisions beyond housing, to include employment practices and public accommodations, and in furtherance of that objective this Council has introduced legislation to enact new Chapter 516, entitled "Discrimination Prohibitions in Employment and Public Accommodations"; and

WHEREAS the City further desires to update and make its Fair Housing ordinance consistent with the language and protections of Chapter 516.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Shaker Heights, State of Ohio:

Section 1. Sections 515.01, 515.02, 515.03, 515.04, and 515.05 of the Business Regulation Code of the Codified Ordinances of the City of Shaker Heights as heretofore in effect are hereby repealed.

Section 2. Sections 515.01, 515.02, 515.03, 515.04, and 515.05 of the Business Regulation Code of the Codified Ordinances of the City of Shaker Heights are hereby amended and enacted to read as follows:

CHAPTER 515
Fair Housing

515.01 PURPOSE.

It is hereby declared to be the purpose of this chapter to provide, within constitutional limitations, for fair housing throughout the City, to assure that all persons have full and equal opportunity to consider all available housing for themselves and their families within the City without being discriminated against on the basis of race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, ~~or~~ national origin, or military status, and to promote a stable, racially integrated community.

515.02 DEFINITIONS.

- (a) "Board" means the Fair Housing Review Board.
- (b) "Covered multi-family dwellings" means buildings consisting of

four (4) or more units if such buildings have one (1) or more elevators, and ground floor units in other buildings consisting of four (4) or more units.

(c) "Discriminate" or "discrimination" means to separate or segregate persons in a particular manner solely or in part because of race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, sex, ancestry, handicap, familial status, sexual orientation, or national origin~~; provided that "discriminate" or "discrimination" shall not include special outreach efforts conducted by or under the authority of units of local government (including agencies, departments and commissions thereof) or nonprofit fair housing corporations or agencies to ensure that persons of minority groups are fully informed of, and have access to, available dwelling opportunities in areas of present or prospective majority group concentration, or to ensure that persons of the majority group are fully informed of and have access to available dwelling opportunities in areas of present or prospective minority group concentration.

(d) "Dwelling" means a building or structure, or part thereof, used or designed or intended to be used for residential purposes.

(e) "Familial status" means one (1) or more individuals (who have not attained the age of eighteen (18) years) being domiciled with:

- (1) A parent or another person having legal custody of such individual or individuals; or
- (2) The designee of such parent or other person having such custody, with the written permission of such parent or their person;

and shall 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 eighteen (18) years.

(f) "Gender identity or expression" means an individual's actual or perceived gender-related identity, appearance, expression, mannerisms, or other gender-related characteristics, regardless of the individual's designated sex at birth.

(g) "Handicap" or "disability" means, with respect to a person:

- (1) A physical or mental impairment which substantially limits one or more of such person's major life activities;
- (2) A record of having such an impairment; 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 in 21 U.S.C. Section 802.

(h) "Housing for older persons" means housing:

- (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 defined in the State or Federal program); or
~~A.—Provided under any State or Federal program that the Secretary of HUD determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or~~
- (2)—B.—Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or
- (3)—C.—Intended and operated for occupancy by at least one persons fifty-five (55) years of age or older—per unit., and
- ~~(2)—The determination as to whether housing qualifies as~~

~~housing for older persons under this subsection shall be consistent with regulations promulgated by the Secretary of HUD, providing at least the following factors:~~

~~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~~

~~A.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~~

~~B.C. The housing facility or community publishes and adheres to publication of, and adherence to, policies and procedures that which demonstrate the an intent required under this subsection; and by the owner or manager to provide housing for persons fifty-five (55) years of age or older.~~

~~C. the housing facility or community complies with rules issued by the Secretary of HUD for verification of occupancy, which shall:—~~

~~i. provide for verification by reliable surveys and affidavits; and~~

~~ii. include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause B. Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purpose of such verification.~~

~~(43) Housing shall not fail to meet the requirements for housing for older persons by reason of:~~

~~A. Persons residing in such housing as of September 13, 1988, of the date of enactment of the Fair Housing Act of 1988 who do not meet the age requirements of this subsection; provided that the new occupants of such housing meet such age requirements; or~~

~~B. Unoccupied units; provided that such units are reserved for occupancy by persons who meet the age requirements of this subsection.~~

~~(i~~h~~) "Lending institution" means any bank, savings and loan association, insurance company or other organization, or person regularly engaged in the business of lending money, guaranteeing loans for profit, or otherwise providing financial assistance or insurance in connection with the purchase, sale or rental of dwellings.~~

~~(j~~i~~) "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 bankruptcy, receivers or fiduciaries.~~

~~(k~~j~~) "Purchase" means to obtain a dwelling through a sale.~~

~~(l~~k~~) "Real estate agent" means a real estate broker or salesman, or a limited real estate broker or salesman, as defined in Ohio R.C. 4735.01.~~

~~(m~~i~~) "Rent" or "rental" means to lease, sublease, assign or otherwise grant or obtain the right to occupy a dwelling not owned by the occupant in return for consideration, or a contract or option to do any of the foregoing.~~

~~(n~~m~~) "Sale" or "sell" means to convey, exchange, transfer or assign~~

legal or equitable title to, or beneficial interest in, a dwelling in return for consideration, or a contract or option to do any of the foregoing.

(~~on~~) "Sexual orientation" means a person's actual or perceived homosexuality, bisexuality, or heterosexuality, ~~by orientation, practice, identity or expression, or having a self-image or identity not traditionally associated with one's gender.~~

(~~pe~~) "Solicit" or "solicitation" means any conduct by a real estate agent, or an employee or agent thereof, intended to induce the owner of a dwelling within the City to sell, rent or list the same for sale or rental.

(~~qp~~) "Unlawful discriminatory practice" means any act prohibited by Section 515.04.

515.03 EXEMPTIONS.

The provisions of this chapter shall not:

- (a) Prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members, provided such club does not discriminate in its membership policies on the basis of race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status. ~~race, color, religion, sex, ancestry, handicap, familial status, sexual orientation or national origin.~~
- (b) Require any person selling or renting property to modify such property in any way at his or her expense, provided that such person does not refuse to permit reasonable modifications by a handicapped person, necessary for that person to fully enjoy the premises in which he or she resides, when such modifications are made at the expense of the handicapped person, which permission may if it is reasonable to do so be conditioned on that person's promise to restore the interior of the premises to the condition in which it previously existed before granting permission for such modification, nor shall this chapter be construed to relieve any handicapped person of any obligation generally imposed on all persons regardless of handicap in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement, or contract, so long as such distinctions are not based on the handicap itself, or on the landlord's refusal to make reasonable modification in the lease, agreement or contract conditions for the purpose of denying a handicapped person equal opportunity to the use and enjoyment of the premises.
- (c) Prohibit restricting the sale or rental of a dwelling on the

basis of handicap when such a dwelling is authorized, approved, financed or subsidized in whole or in part for the benefit of persons of a handicap by a unit of state, local or Federal government, so long as such restrictions do not discriminate against otherwise qualified handicapped persons.

- (d) Require that a dwelling be made available to a person with a handicap 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.
- (e) Prohibit the applicability of any reasonable local, state or Federal Restrictions regarding the maximum number of occupants permitted to occupy a dwelling.
- (f) With regard to familial status, apply to dwellings provided under any state or Federal program specifically designed and operated to assist elderly persons, as defined in the State or Federal program, or to housing for older persons provided that HUD has determined that such program or housing is exempt, which determination shall be conclusive.
- (g) Prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, national origin, sex, handicap, sexual orientation or familial status.~~
- (h) ~~Apply to any single-family house sold or rented by an owner, under the terms and conditions set forth in 42 U.S.C. Section 3603(b); or to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.~~
- ~~(i) Prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in 21 U.S.C. Section 802.~~

515.04 PROHIBITED ACTS; VIOLATIONS.

(a) It is hereby declared to be a discriminatory housing practice and unlawful for any person to:

- (1) Refuse to sell, transfer, assign, rent, lease, sublease, finance, negotiate or otherwise deny or make unavailable a dwelling to any person because of the race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, sex, ancestry, handicap, familial status, sexual orientation or national origin~~ of any present or prospective owner, occupant, or user of such dwelling or in the case of a handicapped person, and associate thereof;
- (2) Represent to any person, because of race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, sex, ancestry, handicap, familial status, sexual~~

~~orientation or national origin~~, that a dwelling is not available for sale, rental or inspection when in fact it is available;

- (3) Refuse to lend money, or to purchase a loan, or to provide other financial assistance, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of a dwelling or otherwise withhold financing of a dwelling from any person because of the race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, sex, ancestry, handicap, familial status, sexual orientation or national origin~~ of any present or prospective owner, occupant or user of such dwelling, provided such person lends money as one (1) of the principal aspects or incident to his principal business and not only as a part of the purchase price of an owner-occupied residence he is selling nor merely casually or occasionally to a relative or friend;
- (4) Discriminate against any person in the terms or conditions of selling, transferring, assigning, brokering, renting, leasing or subleasing any dwelling or in furnishing facilities, services or privileges in connection with the ownership, occupancy or use of any dwelling, including the sale of fire, extended coverage or homeowners insurance, because of the race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, sex, ancestry, handicap, familial status, sexual orientation or national origin~~ of any present or prospective owner, occupant or user of such dwelling, or in the case of a handicapped person, an associate thereof, or because of the racial composition of the neighborhood in which the dwelling is located;
- (5) Discriminate against any person in the terms or conditions of any loan of money, purchase of loans, or in providing other financial assistance, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of a dwelling because of the race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, sex, ancestry, handicap, familial status, sexual orientation or national origin~~ of any present or prospective owner, occupant or user of such dwelling, or because of the racial composition of the neighborhood in which the dwelling is located;
- (6) Refuse to consider without prejudice the purpose of extending mortgage credit to a married couple or either member thereof;
- (7) Print, publish or circulate any statement or advertisement or make any verbal statement, relating to the sale, transfer, assignment, rental, lease, sublease or

acquisition of any dwelling or the loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of a dwelling which indicates any preference, limitation, specification or discrimination based upon race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, sex, ancestry, handicap, familial status, sexual orientation, or national origin,~~ or an intention to make any such preference, limitation, specification or discrimination.

- (8) Include in any transfer, rental or lease of a dwelling any restrictive covenant, based on race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, sex, ancestry, handicap, familial status, sexual orientation, or national origin,~~ or honor or exercise, or attempt to honor or exercise, any such restrictive covenant, provided that the prior inclusion of such a restrictive covenant in the chain of title shall not be deemed a violation of this provision;
- (9) Induce or solicit or attempt to induce or solicit a dwelling listing, sale or transaction by representing that a change has occurred or may occur with respect to the racial, religious, sexual or ethnic composition of the block, neighborhood or area in which the dwelling is located, or induce or solicit or attempt to induce or solicit such sale or listing by representing that the presence or anticipated presence of persons of any race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, sex, ancestry, handicap, familial status, sexual orientation or national origin,~~ in the area will or may have results such as the following:
- A. The lowering of property values;
 - B. A change in the racial, religious, sexual or ethnic composition of the block, neighborhood or area in which the dwelling is located;
 - C. An increase in criminal or antisocial behavior in the area;
 - D. A decline in the quality of the schools serving the area.
- (10) Deny any person access to or membership or participation in any multiple-listing service, real estate agents' association, or other service, association or facility relating to the business of selling or renting housing accommodations, or to discriminate against any person in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, sex, national origin, handicap, familial status, sexual~~

~~orientation, or ancestry;~~

- (11) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person's having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section;
- (12) Discourage or attempt to discourage the purchase by a prospective purchaser of a dwelling, by representing that any block, neighborhood or area has undergone or might undergo a change with respect to the religious, racial, sexual, familial status or ethnic composition of the block, neighborhood or area;
- (13) Discriminate against any person, because of race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, sex, national origin, handicap, familial status, sexual orientation, or ancestry~~, in appraising the value of any dwelling in connection with the sale, brokering or rental of such dwelling;
- (14) Refuse to permit, at the expense of a 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 premise, except that, in the case of a rental, no modification need be permitted unless the renter first agrees to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted unless previously negotiated with the landlord;
- (15) Refuse to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling, including associated public and common use areas;
- (16) Construct covered multi-family dwellings, built for first occupancy after March 13, 1991, that do not provide for accessibility and usability for physically handicapped persons in compliance with applicable State or Federal law, whichever is controlling;
- (17) Discriminate in any manner against any other person because that person has opposed any unlawful practice defined in this chapter, or because that person has made a charge, testified, assisted or participated in any manner in any investigation, proceeding or hearing as provided pursuant to this chapter;
- (18) Aid, abet, incite, compel or coerce the doing of any act declared by this chapter to be an unlawfully discriminatory practice, or to obstruct or prevent any person from complying with the provisions of this chapter, or any order issued pursuant thereto, or to attempt directly or indirectly to commit any act declared by this chapter to be an unlawful discriminatory practice.

515.05 POSTING OF NOTICES.

All real estate agents and all persons who operate or manage a

dwelling with more than four (4) dwelling units shall post in a conspicuous location in those areas of their places of business located within the City where prospective purchasers, sellers or renters normally make inquiries, and where the terms of a sale or rental are normally negotiated, a notice which contains the following language, printed on a light-colored background, in not less than fourteen point type:

"It is a violation of the Shaker Heights Fair Housing Law, in connection with any housing activity, to discriminate against any person because of race, color, religion, sex, ancestry, handicap or disability, familial status, sexual orientation, gender identity or expression, national origin, or military status~~race, color, religion, sex, ancestry, handicap, familial status, sexual orientation or national origin.~~
For more information, contact: 216--491-1440."

Section 3: This ordinance shall take effect from and after the earliest time allowed by law.

Enacted July 22, 2019.

Approved this _____ day of _____, 2019.

DAVID E. WEISS, Mayor

Attest:

JERI E. CHAIKIN
Clerk of Council

Cou19/0513FairHousingCODORD515