Fair Housing Ordinance

GENERAL ORDINANCE # 2016-31

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 COUNTY COMMISSIONERS OF Warrick County, Indiana, AS FOLLOWS:

Section 1 Policy Statement

It shall be the policy of Warrick County 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; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one (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 rights 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.
   2. a record of having such an impairment, or
   3. being regarded as having such an impairment,
   4. an impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990.
   5. Any other impairment defined in 910 IAC 2-3.

   The term 'Handicap' shall not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 of the United States Code 910 IAC 2-3-2(14); nor does the term 'Handicap' include an individual solely because that individual is a transvestite 910 IAC 2-3-2(14).

G. An Aggrieved Person includes any person who (I.C. 22-9.5-2-2):
   1. claims to have been injured by a discriminatory housing practice; or
   2. believes that such person will be injured by a discriminatory housing practice that is about to occur.

H. Familial Status means one or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person.

   The protections afforded against discrimination on the basis of familial status 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 18 years.

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.

Section 3 Unlawful Practice

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 Indiana Code and in Section 4 of this Ordinance shall apply to:

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:

1. Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single family house by a private individual owner not residing in the house at the time of sale or exemption shall apply only to one such sale within any twenty-four (24) month period. The private individual owner may not own any interest in, nor have owned or reserved on his behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single family house shall be exempted 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 noting in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title, or

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

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

1. They have, within the preceding twelve (12) months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

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

3. They are the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five (5) or more families.

Section 4 Discrimination in the Sale or Rental of Housing

As made applicable by Section 3 and except as exempted by Section 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, handicap, familial status 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 of facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.

C. To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.

D. To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

E. For profit, to induce or attempt to induct any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin.

F. 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:

    1. that buyer or renter;

    2. a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

    3. any person associated with that person.

G. 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:

    1. that person; or

    2. a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

    3. any person associated with that person.

H. For purposes of this subsection, discrimination includes:

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

2. 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

3. 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, 1998, a failure to design and construct those dwellings in such a manner that;

    a. the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
    b. 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
    c. 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 bathrooms such that an individual in a wheelchair can maneuver about the space.

Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility an usability for physically handicapped people (commonly cited as □ANSI A117.1") suffices to satisfy the requirements of paragraph (3) (C)(iii).

Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health of 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:

   i. for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
   ii. secured by residential real estate.

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

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 6 Discrimination in the Provision of Brokerage Service
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 7 Interference, Coercion, or Intimidation
It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 3, 4, 5 or 6 of this Ordinance.

Section 8 Prevention of Intimidation in Fair Housing Cases
Whoever, whether or not acting under code or law, by force or threat of force willfully injures, intimidates or interferes with, or attempt to injure, intimidate or interfere with:

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

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

1. participating, without discrimination on account of race, color, religion, sex,

handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (A); or

2. affording another person or class of persons opportunity or protection so to participate; or

C. any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully 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 according to local, state and federal law; and if bodily injury results shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

Section 9 Equal Access to Housing in HUD Programs

Pursuant to 24 CFR Part 5.403 and 24 CFR Part 574.3 the definition of "family" is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

Section 10 Exemptions

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 lodging to its members or from giving preference to its members.

C. Nothing in this Ordinance regarding familial status shall apply with respect to housing for older persons. As used in this Section, 'housing for older persons' means housing:

1. 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 person (as defined in the state or federal program) or;

2. intended for, and solely occupied by, person 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.

Section 11 Administrative Enforcement of Ordinance

A. The authority and responsibility for properly administering this Ordinance and referral of complaints hereunder to the Commissioner as set forth in subsection (B) hereof shall be vested in the Chief Elected Official of Warrick County, Indiana.

B. Notwithstanding the provisions of I.C. 22-9.5-4-8, Warrick County, Indiana, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the Ordinance, herein elects to refer all formal complaints of violation of the articles of this Ordinance by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to Title 22-9.5-6 of Indiana Code and the Chief Elected Official of the Warrick County, Indiana, shall refer all said complaints to the 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 Warrick County, Indiana shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Ordinance and shall cooperate with the Chief Elected Official and the Commission to further such purposes.

D. The Chief Elected Official of Warrick County, Indiana, or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

Section 12 Severability of Provisions

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 its provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

Certification of Adoption

It is hereby certified that this Ordinance Number 2016-31 was passed by the County Commissioners of Warrick County, Indiana, at its legally convened meeting on December 12 & December 27, 2016.

Don Williams
Signature, Chief Elected Official

Don Williams, President
Name and Title, Chief Elected Official

December 12, 2016
Date

Deborah K. Stevens
Attest By Deborah K. Stevens, Auditor

December 12, 2016
Date