

COUNCIL ITEM 86  
DATE 10/10/05

ORDINANCE 05-137

COUNCIL ITEM 10g  
DATE 9/26/05

AN ORDINANCE PROVIDING FOR THE ADOPTION OF THE CITY OF PORT ST. LUCIE FAIR HOUSING CODE; PROVIDING FOR A DECLARATION OF POLICY TO PROHIBIT DISCRIMINATION IN HOUSING ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, HANDICAP, FAMILIAL STATUS, OR RELIGION; PROVIDING DEFINITIONS; DESIGNATING DISCRIMINATORY HOUSING PRACTICES IN THE SALE OR RENTAL OF HOUSING, IN ADVERTISING IN CONNECTION THEREWITH, IN THE FINANCING OF HOUSING, AND IN BROKERAGE SERVICES RELATED TO HOUSING; PROVIDING FOR CERTAIN EXEMPTIONS AND EXCEPTIONS; PROVIDING FOR AN ADMINISTRATOR AND PRESCRIBING THE GENERAL POWERS AND DUTIES OF SUCH ADMINISTRATOR; AUTHORIZING THE PROMULGATION OF COMPLAINT FORMS; MAKING PROVISION FOR THE FILING OF COMPLAINTS, AND THE PROCESSING THEREOF BY THE ADMINISTRATOR; PROVIDING FOR ADDITIONAL REMEDIES, AND INFORMATION; PROVIDING FOR A PENALTY; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPLICABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is in the best interest of the economic and social development of the City of Port St. Lucie to provide the opportunity for each person to obtain housing of that person's choice in the City of Port St. Lucie, without regard to race, color, national origin, sex, handicap, familial status, or religion; and

WHEREAS, the State of Florida and the United States of America have enacted Sections 760.20 - 760.37, Florida Statutes, and 42 U.S.C. Sections 3604 - 3614a, respectively, to prohibit housing discrimination based on race, color, national origin, sex, handicap, familial status, or religion. This legislation also provides procedures to process complaints of housing discrimination at the state and federal level; and

WHEREAS, the enactment of the Port St. Lucie Fair Housing Ordinance to prohibit housing discrimination will augment the state and federal legislation to provide the citizens of the City of Port St. Lucie with a procedure for processing complaints of such housing discrimination at the local level; and

WHEREAS, the City of Port St. Lucie Planning and Zoning Board held a public hearing on the proposed ordinance after duly publishing notice, and made its recommendations to this council.

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NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. Declaration of Policy. It is hereby declared to be the policy of the City of Port St. Lucie, in keeping with the laws of the United States of America and the laws and Constitution of the State of Florida, to promote through fair, orderly and lawful procedure the opportunity for each person so desiring to obtain housing of such person's choice in the City, without regard to race, color, national origin, sex, handicap, familial status, or religion and, to that end, to prohibit discrimination in housing by any person.

Section 2. Definitions. For the purpose of this article, the following definitions shall apply:

Administrator means the City Manager or his or her designee.

Council means the City Council of the City of Port St. Lucie.

City means the City of Port St. Lucie, Florida.

Discriminatory housing practice means an act which is unlawful under Section 3 through Section 5 hereof.

Familial status is attained when one or more individuals who have not attained the age of eighteen (18) years are domiciled with a parent or other person having legal custody of such person(s) or a designee of a parent or other person having legal custody, with the written permission of such parent or other such person.

Family means one or more natural persons living together as a single house keeping unit in a residential dwelling.

Handicap means a person who has a physical or mental impairment which substantially limits one or more major life activities, or has a record of having, or is regarded as having, such mental or physical impairment.

Housing for older persons means housing:

1. Provided under any state or federal program that the Administrator determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

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

3. Intended and operated for occupancy by at least one (1) person fifty five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subparagraph, the Administrator shall consider 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 providing such facilities and services is not practicable, such housing is necessary to provide important housing opportunities for older persons; and

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

(c) The publication 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.

4. Housing shall not fail to be considered housing for older persons if:

(a) A person who resides in such housing on or after October 1, 1989, does not meet the age requirements of this subsection, provided that any new occupant meets such age requirements; or

(b) One or more units are unoccupied, provided that any unoccupied units are reserved for occupancy by persons who meet the age requirements of this subsection.

Lending institution means any bank, insurance company, savings and loan association or any other person or organization whose business consists, in whole or part, of making commercial real estate loans.

Owner means any person, including, but not limited to a lessee, sublease, assignee, manager, or agent, having the right of ownership or possession or the authority to sell or lease any residential dwelling.

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Person means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mortgage companies, joint stock companies, trusts, unincorporated organizations, public corporations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

Real estate broker or salesman means a person, whether licensed or not, who for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself or herself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these.

Rent means lease, sublease, assignment or rental, including any contract to do any of the foregoing, or otherwise granting for consideration the right to occupy premises that are not owned by the occupant.

Residential dwelling means any building, structure, or portion thereof, mobile home or trailer, or other facility which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof, mobile home or trailer or other facility.

Residential real estate transaction means the making or purchasing of loans or providing other financial assistance for purchasing, construction, or maintaining a residential dwelling or secured by residential real estate or the selling, brokering, or appraising of residential real property.

Respondent means any person against whom a complaint is filed pursuant to this ordinance.

Sale means any contract to sell, exchange, or to convey, transfer or assign legal or equitable title to, or a beneficial interest in, real property.

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Section 3. Discriminatory housing practices.

Except as provided in Section 6 hereof, it shall be unlawful and a discriminatory housing practice:

(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 to make unavailable or deny a residential dwelling to any person because of race, color, national origin, sex, handicap, familial status, or religion.

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a residential dwelling, or in the furnishing of facilities or services in connection therewith, because of race, color, national origin, sex, handicap, familial status, or religion.

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

(d) To represent to any person that a residential dwelling is not available for inspection, sale, rental, or lease when in fact it is so available to persons who are financially qualified, or to fail to bring a property listing to such person's attention, or to refuse to permit him or her to inspect the residential dwelling because of race, color, national origin, sex, handicap, familial status, or religion.

(e) For profit, to induce or attempt to induce any person to sell or rent any residential dwelling by a representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, national origin, sex, handicap, familial status, or religion.

Section 4. Discrimination in the financing of housing.

(a) It shall be unlawful and a discriminatory housing practice for any lending institution, as defined herein, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving,

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repairing or maintaining a residential dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other term or condition of such loan or other financial assistance, because of the race, color, national origin, sex, handicap, familial status, or religion of the present or prospective owners, lessees, tenants, or occupants of the residential dwelling or residential dwellings in relation to which such loan or other financial assistance is to be made or given.

(b) It shall be unlawful and a discriminatory housing practice for any person or entity whose business includes engaging in residential real estate 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, national origin, sex, handicap, familial status, or religion.

### Section 5. Discrimination in the provision of brokerage services.

It shall be unlawful and a discriminatory housing practice to deny any person access to, or membership or participation in, any multiple listing service, real estate brokers' organization, or facility relating to the business of selling or renting residential dwellings, or to discriminate against him or her in the terms or conditions of such access, membership or participation, because of race, color, national origin, sex, handicap, familial status, or religion.

### Section 6. Exemptions.

(a) Nothing contained in this section shall apply to:

(1) Any single-family house sold or rented by an owner provided that such private individual owner does not own more than three (3) such single family houses at any one time. In the case of the sale of any such single family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period. In addition, the bona fide private individual owner shall not own any interest in, nor shall there be owned or reserved on such owner's behalf under any express or voluntary agreement, title to or any rights to all or a portion of the proceeds

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from the sale or rental of more than three such single family houses at any one time. The sale or rental of any single-family house shall be exempted from the application of this article only if the house is sold or rented:

(i) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or such facilities or services of any person in the business of selling or renting a residential dwelling, or of any employee or agency of any such broker, agent, salesperson, or person, but this shall not prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer the title; and

(ii) Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of this article.

(2) For the purpose of this subsection, a person shall be deemed to be in the business of selling or renting residential dwellings if:

(i) He or She has, within the preceding twelve (12) months, participated as principal, other than in the sale of his or her own personal residence, in providing sales or rental facilities or sales or rental services in three (3) or more transactions involving the sale or rental of any residential dwelling or any interest therein; or

(ii) He or she has, within the preceding twelve (12) months, participated as agent, other than in the sale of his or 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 residential dwelling or any interest therein; or

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

(3) Rooms or units in housing containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each

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other, if the owner actually maintains and occupies one (1) of such living quarters as such owner's residence.

(4) A religious organization, association, or society, or any nonprofit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, in advertising the sale, rental or occupancy of residential dwelling which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons.

(5) 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, in limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b) Any provision of this article regarding familial status does not apply with respect to housing for older persons as defined herein.

(c) Nothing in this article:

(1) Prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, national origin, sex, handicap, familial status, or religion.

(2) Limits the applicability of any reasonable restriction regarding the maximum number of occupants permitted to occupy a residential dwelling.

(3) Requires that a residential 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.

(4) Prohibits 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 under Chapter 893, Florida Statutes.



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Section 7. Administrator - authority and responsibilities.

(a) The authority and responsibility for administering this ordinance shall be vested in the City Manager, or his or her designee.

(b) The Administrator will:

(1) Receive written complaints as hereinafter provided relative to alleged unlawful acts under this ordinance.

(2) Upon receiving a written complaint, he or she shall refer the matter to the appropriate state or federal authorities for legal action.

(3) Establish, administer, or review programs at the request of the Council and make reports on such programs to the Council.

(4) Bring to the attention of the Council items that may require the Council's notice or action to resolve.

(5) Cooperate with federal, state, local, and other public and private agencies, organizations and institutions which are formulating or carrying on programs to prevent or eliminate the unlawful discriminatory practices covered by the provisions of this ordinance.

Section 8. Complaints.

(a) A person who claims that another person has committed a discriminatory housing practice against him or her may report that offense to the Administrator by filing a complaint.

(b) A complaint must be in writing, verified, or affirmed, on a form to be supplied by the Administrator and shall contain the following:

(1) Identity of the respondent.

(2) Date of the offense and date of filing the complaint.

(3) General statements of facts of the offense, including the basis of the discrimination (race, color, national origin, religion, sex, familial status, or handicap) and, if applicable, the location of the dwelling involved.

(4) Name, address, and signature of the complainant.

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(c) Each complaint shall be held in confidence by the Administrator unless and until the complainant and the respondent(s) consent in writing that it shall be public.

Section 9. Additional remedies.

The procedures prescribed by this ordinance do not constitute an administrative prerequisite to another action or remedy available under other law. Further, nothing in this ordinance shall be deemed to modify, impair, or otherwise affect any right or remedy conferred by the Constitution or laws of the United States or the State of Florida, and the provisions of this ordinance shall be in addition to those provided by such other laws.

Section 10. Education and public information.

The Administrator may conduct educational and public informational activities that are designed to promote the policy of this ordinance.

Section 11. Penalty.

Any person who violates any provisions of this ordinance shall be subject, upon conviction, to the appropriate state or federal penalty.

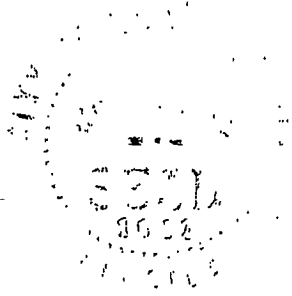
Section 12. Severability.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property, or circumstances.

Section 13. This ordinance shall become effective ten (10) days after its final adoption.

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PASSED AND APPROVED by the City Council of the City of Port St. Lucie,  
Florida, this 10th day of October, 2005.



CITY COUNCIL  
CITY OF PORT ST. LUCIE

By Robert E. Minsky  
Robert E. Minsky, Mayor

ATTEST:

Karen A. Phillips  
Karen A. Phillips, City Clerk

APPROVED AS TO FORM: Roger G. Orr  
Roger G. Orr, City Attorney