

**ORDINANCE # 507
FAIR HOUSING**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF LINDSAY, GARVIN COUNTY, STATE OF OKLAHOMA, AMENDING THE CODE OF ORDINANCES TO PROVIDE EQUAL ACCESS TO HOUSING; DEFINING TERMS; DEFINING DISCRIMINATORY HOUSING PRACTICES; PROVIDING PENALTIES FOR VIOLATION THEREOF; PROVIDING FOR ADMINISTRATION AND EDUCATION; PROVIDING ENFORCEMENT PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LINDSAY, OKLAHOMA:

Section 1. That the Code of Ordinances of the City of Lindsay, Oklahoma, is hereby amended by adding a new Appendix D - Fair Housing, which shall henceforth read as follows:

Appendix D – Fair Housing

Section I. Policy

It is the policy of the **City of Lindsay** to provide, within constitutional limitations, for fair housing throughout the **City of Lindsay**.

Section II. Definitions

- A. "Dwelling" means any building, structure or portion thereof which is occupied as or designed or intended for occupation 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.
- B. "Family" includes a single individual.
- C. "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers and fiduciaries.
- D. "To rent" includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- E. "Discriminatory housing practices" means an act that is unlawful under sections IV, V, and VI.
- F. "City manager" means the city manager of the City of Lindsay or any person, employee, agent, board, or single or plural authority whom the city manager may designate to sit as his or her designee to perform the duties and functions provided in this chapter.

Section III. Unlawful Practices

Subject to the provisions of subsection B and Section VII, the prohibitions against discrimination in the sale or rental of housing set forth in Section III shall apply to:

A. All dwellings except as exempted by subsection B.

B. Nothing in Section IV 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 such single-family houses at any one time; provided further that, 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 month period: provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of any such single-family house shall be excepted from the application of this Title only if such house is sold or rented:
 - a. 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 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 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. Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of Section IV.C of this policy. However, nothing in this provision shall prohibit the use of attorney's, escrow agents, abstractors, title companies and other such professional assistance as is necessary to perfect or transfer the 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 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;
2. He has, within the preceding twelve months, participated as an agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein;
3. He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

Section IV. Discrimination in the Sale or Rental of Housing

As made applicable by Section III and except as exempted by Sections III.B and VII, 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, sex, color, religion, national origin, disability, familial status, sexual orientation, gender identity or political activities.
- B. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling on in the provision of services or facilities in connection therewith because of race, sex, color, religion, national origin, disability, familial status, sexual orientation, gender identity or political activities.
- C. To make, print or publish or cause to be made, printed or published notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, sex, color, religion, national origin, disability, familial status, sexual orientation, gender identity or political activities an intention to make any such preference, limitation or discrimination.
- D. To represent to any person because of race, sex, color, religion, national origin, disability or familial status or sexual orientation, gender identity or political activities that any dwelling is not available for inspection, sale or rental when such dwelling is, in fact, so available.
- E. To induce or attempt to induce any person to sell or rent any dwelling, for profit, by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, sex, color, religion, national origin, disability, familial status, sexual orientation, gender identity or political activities.

Section V. Discrimination in Financing or Housing

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of race, sex, color, religion, national origin, disability, familial status, sexual orientation, gender identity or political activities of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given, provided that nothing contained in this section shall impair the scope or effectiveness of the exception contained in Section III.B.

Section VI. Discrimination in the Provision of Brokerage Services

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, rental 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, sex, color, religion, national origin, disability, familial status, sexual orientation, gender identity or political activities.

Section VII. Exemption

Nothing in this Policy shall prohibit a religious organization, association or society or any non-profit 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, sex, color, national origin, disability, familial status, sexual orientation, gender identity or political activities. Nor shall anything in this Policy 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.

Section VIII. Administration

- A. The authority and responsibility for administering this policy shall be in the City Manager of the **City of Lindsay** or his/her designee.
- B. The City Manager may delegate any of these functions duties and powers to employees of the **City** or to boards of such employees, including functions, duties and powers, with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business or matter under this Policy. The City Manager shall, by rule, prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the **City**, to boards of officers or to himself, as shall be appropriate and in accordance with law.
- C. All administrative departments and agencies shall administer their programs and activities relating to housing and urban development in a manner to affirmatively further the purposes of the policy and shall cooperate with the City Manager to further such purposes.

Section IX. Education and Conciliation

Immediately after the enactment of this Policy, the City Manager shall commence such educational and conciliatory activities as will further the purposes of this policy. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this policy and his suggested means of implementing it and shall endeavor, with their advice, to work out programs of voluntary compliance and of enforcement.

Section X. Enforcement

- A. Any person who claims to have been injured by a discriminatory housing practice or who believes that he or she will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the City Manager and the City Clerk. Complaints shall be in writing and shall contain such information and be in such form as the City Manager requires. Upon receipt of such a complaint, the City Manager shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint or within thirty days after the expiration of any period of reference under subsection C below, the City Manager shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the City Manager decides to try to

eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion, nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this policy without the written consent of the persons concerned. Any employee or agent of the City Manager or City who shall make public any information in violation of this provision shall, upon conviction, be fined or imprisoned not more than the maximum allowed by the statutes of the State of Oklahoma.

- B. A complaint under subsection A shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and, with the leave of the City Manager which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.
- C. If, within thirty (30) days after a complaint is filed with the City Manager and the City Clerk, the City Manager has been unable to obtain voluntary compliance with this policy, the person aggrieved may, within thirty days (30) thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The City Manager will assist in this filing.
- D. If the City Manager has been unable to obtain voluntary compliance within thirty (30) days of the complaint, the person aggrieved may, within thirty (30) days thereafter, commence a civil action in any appropriate court against the respondent named in the complaint to enforce the rights granted or protected by this Policy insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.
- E. In any proceedings brought pursuant to this section, the burden of proof shall be on the complainant.
- F. Whenever an action by an individual shall come to trial, the City Manager shall immediately terminate all efforts to obtain voluntary compliance.

Section XI. Investigations, Subpoenas, Giving of Evidence

- A. In conducting an investigation, the City Manager shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statement of such persons as are reasonably necessary for the furtherance of the investigation; provided, however, that the City Manager first complies with the provisions of the of the United States Constitution and/or the Oklahoma Constitution relating to unreasonable searches and seizures. The City Manager may issue subpoenas to compel his access to or the production of such materials or the appearance of such persons and may issue interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The City Manager may administer oaths.

- B. Upon written application to the City Manager, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the City Manager to the same extent and subject to the same limitations as subpoenas issued by the City Manager himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.
- C. Witnesses summoned by subpoenas of the City Manager shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States District Courts. Fee payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him. Within five days after service of a subpoena upon any person, such person may petition the City Manager to revoke or modify the subpoena. The City Manager shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous or for other good reason.
- D. In case of contumacy or refusal to obey a subpoena, the City Manager or other person at whose request it was issued may petition for its enforcement in the municipal court or county district court in which the person to who the subpoena was addressed resides, was served or transacts business.
- E. Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the City Manager shall be fined or imprisoned or both not more than the maximum allowed by the statutes of the State of Oklahoma. Any person who, with intent to mislead the City Manager, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the City Manager pursuant to his subpoena or other order or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents or shall willfully mutilate, alter or by any other means falsify any documentary evidence shall be fined or imprisoned or both not more than the maximum allowed by the statutes of the State of Oklahoma.
- F. The **City's Attorney** shall conduct all litigation in which the City Manager participates as a party or as amicus pursuant to this Ordinance.

Section XII. Enforcement by Private Persons

- A. The rights granted herein by Sections III, IV, V, and VI may be enforced by civil actions in state courts of general jurisdiction. A civil action shall be commenced within 180 days after the alleged discriminatory housing practice occurred; provided, however, that the court shall continue such civil case brought pursuant to this Section or Section X.D from time to time before bringing it to trial if the court believes that the conciliation efforts of the City Manager are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the City Manager and which practice forms the basis for the action in court; and provided, however, that any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this Policy and involving a bona fide purchaser, encumbrancer or tenant, without actual notice of the existence of the filing of a complaint or civil action under the provisions of this Policy, shall not be affected.

- B. The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order or other order and may award to the plaintiff actual damages and such punitive damages allowed under the laws of the state or under applicable federal law, together with court costs and reasonable attorney's fees in the case of a prevailing plaintiff, provided that the said plaintiff, in the opinion of the court, is not financially able to assume said attorney's fees.

Section XIII. 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 III, IV, V or XI. This Section may be enforced by appropriate civil action.

Section XIV. Severability of Provisions

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

Section XV. Prevention of Intimidation in Fair Housing Cases

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:

- A. Any person because of his race, sex, color, religion, national origin, disability, familial status, sexual orientation, gender identity or political activities, 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 class of persons from:
1. Participating without discrimination on account of race, sex, color, religion, national origin, disability, familial status, sexual orientation, gender identity or political activities in any of the activities, services, organizations or facilities described in subsection XV.A; or
 2. Affording another person or class of persons' opportunity or protection so to participate.
- 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, sex, color, religion, national origin, disability, familial status, sexual orientation, gender identity or political activities in any of the activities, services, organizations or facilities described in subsection XV.A or from participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined or imprisoned or both not more than the maximum allowed by the statutes of the State of Oklahoma; and if bodily injury results, shall be fined or imprisoned or both not more than the maximum allowed by the statutes of the State of Oklahoma; and if death results, shall be subject to imprisonment for any term of years or for life as allowed by the statutes of the State of Oklahoma.

Section 2. Emergency.

It being immediately necessary for the preservation of the public health, peace and safety of the citizens of the City of Lindsay and the inhabitants thereof, an emergency is hereby declared to exist by reason whereof, this Ordinance shall be in full force and effect as from and after its passage and approval as provided by law.

PASSED AND APPROVED and the emergency clause voted upon separately and passed and approved this 14th day of NOVEMBER, 2016.

BRANDON FENTEM, MAYOR

ATTEST:

Kathy Hammans, City Clerk