

2009-05-14-0385

AN ORDINANCE

**AMENDING CHAPTER 9, ARTICLE III OF THE CITY CODE OF SAN ANTONIO, TEXAS ENTITLED "DISCRIMINATORY HOUSING PRACTICES", TO INCLUDE A PROHIBITION AGAINST DISCRIMINATION IN HOUSING BASED ON FAMILIAL STATUS, ESTABLISHING PROCEDURES FOR ADMINISTRATIVE ACTION AND ENFORCEMENT, ESTABLISHING PENALTIES AND FINES FOR VIOLATIONS, AND PROVIDING FOR PUBLICATION; AND AUTHORIZING THE SUBMISSION OF THE REVISED FAIR HOUSING CODE FOR THE CITY OF SAN ANTONIO TO THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.**

\* \* \* \* \*

**WHEREAS**, the City of San Antonio proposes to provide our residents the opportunity to acquire housing without regard to race, color, religion, sex, disability, familial status, national origin, and age; and

**WHEREAS**, the City Attorney's Office and the Department of Community Initiatives (DCI) reviewed this proposed amendment for more than 12 months; and

**WHEREAS**, numerous meetings with stakeholders throughout the community were held to discuss the proposed amendment over the last 6 months; and

**WHEREAS**, in March 2009, the City Council's Quality of Life Committee discussed this issue and recommended that staff bring this item to City Council for consideration; and

**WHEREAS**, the City's current fair housing code would be amended to reflect the federal Fair Housing Act, which provides more comprehensive protection and procedures for addressing discrimination in housing; and

**WHEREAS**, in doing so, the City may ultimately receive Substantially Equivalent Certification which will grant the City the advantages of providing greater housing protection for families with children, improved local complaint processing, greater prospects for partnerships that affirmatively further fair housing, access to specialized training and enforcement funds, and increased opportunities for federal funding; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The current Chapter 9, Article III of the City Code of San Antonio, Texas, entitled "Discriminatory Housing Practices", is hereby amended in its entirety by replacing its provisions with a revised Chapter 9, Article III entitled "Fair Housing", attached hereto as **Attachment I**, and incorporated herein for all purposes.

**SECTION 2.** The City Manager or her designee, or the Director of the Department of Community Initiatives (DCI) or his designee is authorized to submit the revised Chapter 9, Article III of the City Code of San Antonio, Texas entitled "Fair Housing", to the U. S. Department of Housing and Urban Development (HUD) for review and consideration for Substantial Equivalency certification upon determination. The Director of the Department of Community Initiatives, or his designee, in coordination with the City Attorney's Office may further amend the revised Chapter 9, Article III of the City Code of San Antonio, Texas as directed by HUD without further Council action so long as such revisions are not substantive.

**SECTION 3.** Violations occurring after the effective date of this ordinance shall be punished as provided in revised Chapter 9, Article III. Violations prior to the effective date shall be punished under the former applicable Sections which shall remain in effect for that purpose.

**SECTION 4.** Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

**SECTION 5.** The City Clerk is directed to publish public notice of this ordinance in accordance with Section 17 of the City Charter of San Antonio, Texas.

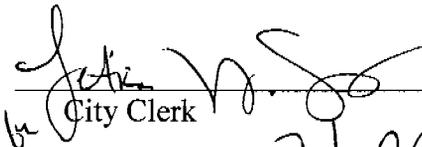
**SECTION 6.** The publishers of the City Code of San Antonio, Texas are authorized to amend said code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

**SECTION 7.** Revised Chapter 9, Article III of the City Code of San Antonio, Texas (Attachment I) shall only be enforced upon final review and certification by HUD.

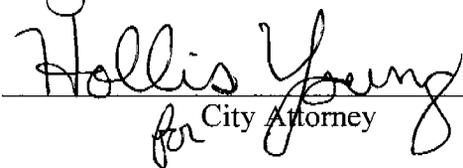
**SECTION 8.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 9.** This ordinance shall be effective on and after May 24, 2009.

PASSED AND APPROVED this 14<sup>th</sup> day of May, 2009.

ATTEST:   
City Clerk

  
M A Y O R

APPROVED AS TO FORM:   
for City Attorney

<b>Agenda Item:</b>	23 ( in consent vote: 10, 12, 13, 14, 15A, 15B, 17, 19, 21, 22, 23, 27, 28, 29A, 29B, 31, 32, 33, 34, 35 )						
<b>Date:</b>	05/14/2009						
<b>Time:</b>	05:56:40 PM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance amending Chapter 9, Article III of the City Code of San Antonio, Texas entitled "Discriminatory Housing Practices", to include a prohibition against discrimination in housing based on familial status, establishing procedures for administrative action and enforcement, and establishing penalties and fines for violations; and authorizing the submission of the revised Fair Housing Code for the City of San Antonio to the U. S. Department of Housing and Urban Development. [Frances A. Gonzalez, Assistant City Manager; Dennis J. Campa, Director, Community Initiatives]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x			x	
Sheila D. McNeil	District 2	x					
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				x
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9	x					
John G. Clamp	District 10		x				

# **ATTACHMENT 1**

## **CHAPTER 9 – Community Relations**

### **ARTICLE III – Fair Housing**

#### **DIVISION I – Declaration of Policy, Purpose and Authority**

##### **Section 9-36 – Declaration of Policy**

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

##### **Section 9-37 - Purpose.**

The purposes of this Article are:

- (a) To provide for fair housing practices in the City,
- (b) To create a procedure for investigating and settling complaints of discriminatory housing practices, and
- (c) To provide rights and remedies substantially equivalent to those granted under state and federal law.

##### **Section 9-38 - Authority.**

This Article is enacted pursuant to authority explicitly granted municipalities by the Texas Constitution Art. XI., Section 5; Texas Local Government Code Chapter 51 - Subchapter E, Chapter 54 and Sec. 214.903; and Texas Property Code Chapter 301.

#### **DIVISION II - Definitions**

##### **Section 9-39 - Definitions.**

The following definitions apply to words used in this Article.

- (a) *Accessible* means that area of a housing accommodation that can be approached, entered and used by a person with a physical disability.

(b) *Accessible route* means a continuous unobstructed path connecting accessible elements and spaces in a housing accommodation that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by a person with other disabilities.

(c) *Administrator* means the administrator of the fair housing office designated by the City Manager to enforce and administer this chapter and includes the administrator's designated representative.

(d) *Aggrieved Person* includes any person who:

- (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.

(e) *Complainant* means a person, including the Administrator, who files a complaint under Section 9-55 of this Article.

(f) *Conciliation* means the attempted resolution of issues raised by a complainant or by the investigation of the complaint, through informal negotiations involving the aggrieved person, the respondent, and the Administrator.

(g) *Conciliation agreement* means a written agreement setting forth the resolution of the issues in conciliation.

(h) *Disability* means:

- (1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (2) a record of such an impairment; or
- (3) being regarded as having such an impairment.

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

(i) *Discriminatory housing practice* means an act prohibited by this Article.

(j) *Dwelling* means:

- (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 or more families; and,

(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 paragraph (a) of this definition.

(k) *Familial status* means the status of a person resulting from being:

(1) pregnant;

(2) domiciled with an individual younger than 18 years of age in regard to whom the person:

(A) is the parent or legal guardian; or,

(B) has the written permission of the parent or legal guardian for domicile with the individual; or,

(3) in the process of securing legal custody of an individual who is younger than 18 years of age.

(l) *Family* includes a single individual.

(m) *Major life activities* means functions such as, but not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(n) *Person* means one 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 of the United States Code, receivers, and fiduciaries.

(o) *Residence* does not include a hotel, motel, or similar public accommodation where occupancy is available exclusively on a temporary, day-to-day basis.

(p) *Respondent* means:

(1) The person accused of a violation of this Article in a complaint of a discriminatory housing practice; and

(2) Any person identified as an additional or substitute respondent under Section 9-58 entitled, "Additional or substitute respondent" or an agent of an additional or substitute respondent.

- (q) *To rent* includes to lease, sublease, to let, or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

### **DIVISION III - Prohibitions against Discrimination**

#### **Section 9-40 - Sale or rental.**

- (a) A person may not refuse to sell or rent a dwelling to a person who has made a bona fide offer; refuse to negotiate for the sale or rental of a dwelling; or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, national origin or age.
- (b) A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in providing services or facilities in connection with the sale or rental, because of race, color, religion, sex, familial status, national origin or age.

#### **Section 9-41 - Inspection.**

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

#### **Section 9-42 - 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, national origin or age.

#### **Section 9-43 - Disability.**

- (a) A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to a buyer or renter because of a disability of:
- (1) That buyer or renter;
  - (2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
  - (3) Any person associated with that buyer or renter.
- (b) A person may not discriminate against any person in the terms, conditions, or privilege of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of:

- (1) That person;
  - (2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
  - (3) Any person associated with that person.
- (c) For purposes of this Section only, discrimination includes:
- (1) A refusal to permit, at the expense of the disabled 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 modification, reasonable wear and tear excepted.
  - (2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling, including public and common use areas.
  - (3) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:
    - (A) The public use and common use portions of such dwellings are readily accessible to and usable by persons with disabilities;
    - (B) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by 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 bathroom walls to allow later installation of grab bars; and,
  - (iv) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
- (d) Compliance with the appropriate requirements of the American National Standard Institute for buildings and facilities providing accessibility and usability for persons with physical disabilities, commonly cited as "ANSI A 117.1," suffices to satisfy the requirements of subdivision (3) of Subsection (C) of this Section.
- (e) As used in this Subsection, the term "covered multi-family dwellings" means:
  - (1) Buildings consisting of four (4) or more units if the buildings have one or more elevators; and
  - (2) Ground floor units in other buildings consisting of four (4) or more units.
- (f) 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.

**Section 9-44 - 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, national origin or age, or an intention to make such a preference, limitation, or discrimination.

**Section 9-45 - Residential real estate related transaction.**

- (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, national origin or age.
- (b) In this Section, "residential real estate related transaction" means:
  - (1) Making or purchasing loans or providing other financial assistance,

- (A) To purchase, construct, improve, repair, or maintain a dwelling; or
  - (B) Secured by residential real estate; or
- (2) Selling, brokering, or appraising residential real property.

**Section 9-46 - 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, national origin or age.

**Section 9-47. Interference with exercise of rights unlawful.**

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 Article, including the giving of testimony or provision of information in aid of investigation or discovery under this Article.

**Section 9-48 – Consideration of non-discriminatory factors.**

Nothing in this Article prohibits:

- (a) Consideration of a person's conviction under federal law or the law of any state for the illegal manufacture or distribution of a controlled substance.
- (b) 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, national origin or age.

**DIVISION IV - Exemptions.**

**Section 9-49 - Sales and Rentals Exempted.**

- (a) Subject to Subsection (b) of this Section, Sections 9-40 through 9-43 of this Article do not apply to:
  - (1) The sale or rental of a single-family house sold or rented by an owner if:

- (A) The owner does not:
  - (i) Own more than three (3) single-family houses at any one time; and
  - (ii) 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 any part of the proceeds from the sale or rental of more than three (3) single-family houses at any one time; and
- (B) The house was sold or rented without:
  - (i) The use of the sales or rental facilities or services of a real estate broker, agent, or salesman licensed under applicable state law or an employee or agent of a licensed broker, agent, or salesman, or the facilities or services of the owner of a dwelling designed or intended for occupancy by five or more families; or
  - (ii) The publication, posting, or mailing of a notice, statement or advertisement prohibited by Section 9-44 of this Act; or
- (2) 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 if the owner maintains and occupies one of the living quarters as the owner's residence.
- (b) The exemption of Subdivision (1) of Subsection (A) of this Section applies only to one sale or rental within a 24-month period if the owner did not reside in the house at the time of sale or rental or was not the most recent resident of the house prior to the sale or rental.

**Section 9-50 - Religious Organizations and Private Clubs Exempted**

- (a) This Article 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 occupy dwellings that it owns or operates for other than a commercial purpose to persons of the

same religion; or

- (2) Giving preference for such dwellings to persons of the same religion, unless membership in the religion is restricted because of race, color or national origin.
- (b) This Article does not prohibit a private club not in fact open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members.

**Section 9-51 - Housing for Elderly Exempted**

- (a) The provisions of this Article relating to familial status do not apply to housing for older persons.
- (b) In this Section “housing for older persons” means housing:
  - (1) That the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons under a federal or state program;
  - (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 as determined by the Secretary of the United States Department of Housing and Urban Development. To the extent that such a determination falls within the jurisdiction of the United States Department of Housing and Urban Development, the following factors at minimum must be present for the dwelling(s) to qualify for the exemption:
    - (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 (80) percent 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.

**Section 9-52 - Appraisal Exemption.**

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

**Section 9-53 - Effect on other law.**

This Section and Article do not affect a requirement of nondiscrimination in any other local, state or federal law.

**DIVISION V – Administrative Provisions**

**Section 9-54 Administrative Provisions.**

- (a) The Administrator shall administer this Article.
- (b) The Administrator may adopt rules necessary to implement this Article, provided that substantive rules adopted by the Administrator shall impose obligations, rights, and remedies which are substantially the same as provided in state and federal fair housing regulations. The Administrator may adopt procedural rules to implement this chapter.
- (c) The Administrator shall cooperate with other entities as set out below:
  - (1) The Administrator shall cooperate with and, as appropriate, may provide technical and other assistance to federal, state, local, and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practices;
  - (2) The Administrator shall 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. The Administrator shall further cooperate with the Texas Workforce Commission in the enforcement of the Texas Fair Housing Act, Texas Property Code Chapter 301, as amended, and may assist the Administrator in any way consistent with the policy of this chapter;

- (3) The Administrator shall treat a complaint referred by the Secretary of Housing and Urban Development or the Attorney General of the United States under the Fair Housing Act of 1968, 42 U.S.C. § 3601, et seq., as amended, or by the Texas Workforce Commission under the Texas Fair Housing Act, Texas Property Code Chapter 301, as amended, as a complaint filed under this Article. No action will be taken under this Article against a person for a discriminatory housing practice if the referred complaint was filed with the governmental entity later than one (1) year after an alleged discriminatory housing practice occurred or terminated.
- (d) The Administrator may file its own complaint not later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, whichever is later.
- (e) The administrator may order discovery in aid of investigations under this division. Such discovery may be ordered to the same extent and is subject to the same limitations as would apply if the discovery were ordered in aid of a civil action in a state district court of Bexar County, Texas.

**Section 9-55 - Complaint.**

- (a) The Administrator will be charged with taking complaints of alleged violations of this Article.
- (b) The Administrator, by and through the City of San Antonio Fair Housing Office shall investigate alleged discriminatory housing practices.
- (c) An aggrieved person may, not later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, file a complaint with the Administrator alleging the discriminatory housing practice.
- (d) The Administrator may file its own complaint not later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, whichever is later.
- (e) 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 alleged 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 alleged discriminatory housing practice, including the basis of the discrimination (race, color, sex, religion, disability, familial status, national origin or age).
  - (7) Or in such other form as prescribed by the Administrator.
- (f) A complaint may be amended at any time.
- (g) On the filing of a complaint the Administrator shall:
- (1) give the aggrieved person notice that the complaint has been received;
  - (2) advise the aggrieved person of the time limits and remedies under this Article; and
  - (3) not later than the 10th day after the filing of the complaint or the identification of an additional respondent under Section 9-58 entitled "Additional or Substitute Respondent," furnish to each respondent:
    - (A) a notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of a respondent under this Act; and
    - (B) a copy of the original complaint, or amended complaint, as applicable.

**Section 9-56 - Answer.**

- (a) Not later than the 10th day after receipt of the notice and copy under Section 9-55 entitled "Complaint," a respondent may file an answer to the complaint.
- (b) An answer must be in writing, under oath or affirmation, and contain the following information:
  - (1) Name, address, telephone number, and signature of the respondent or the respondent's attorney, if any.
  - (2) Concise statement of facts in response to the allegations in the complaint and facts of any defense or exemption.

- (3) Or in such other form as prescribed by the Administrator.
- (c) An answer may be amended at any time.
- (d) An answer does not inhibit the investigation of a complaint.

**Section 9-57 - Investigation.**

- (a) Not more than 30 days after the filing of a complaint by an aggrieved person or by the Administrator, the Administrator shall commence an investigation of the complaint to determine whether there is reasonable cause to believe a discriminatory housing practice was committed and the facts of the discriminatory housing practice.
- (b) The Administrator shall seek the voluntary cooperation of any person to:
  - (1) obtain access to premises, records, documents, individuals, and any other possible source of information;
  - (2) examine, record, and copy necessary materials; and
  - (3) take and record testimony or statements of any person reasonably necessary for the furtherance of the investigation.
- (c) An investigation shall remain open until a reasonable cause determination is made under Section 9-63, a conciliation agreement is executed and approved under Section 9-61, or the complaint is dismissed under Section 9-65. Unless impracticable to do so, the Administrator shall complete the investigation within 100 days after the date of filing of the complaint. If the Administrator is unable to complete the investigation within the 100-day period, the Administrator shall notify the complainant, the aggrieved party if different from the complainant, and the respondent, in writing, of the reasons for the delay.
- (d) This Section does not limit the authority of the Administrator to conduct such other investigations or to use such other enforcement procedures, otherwise lawful, as the Administrator considers necessary to enforce this chapter.

**Section 9-58 - Additional or substitute respondent.**

- (a) The Administrator may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation the Administrator determines that the person should be accused of a discriminatory housing practice.

- (b) In addition to the information required in the notice under Subsection (G)(3) of Section 9-55 entitled, "Complaint" the Administrator shall include in a notice to a respondent joined under this Section an explanation of the basis for the determination that the person is properly joined as a respondent.

**Section 9-59 - Investigative Report.**

- (a) The Administrator shall prepare a final investigative report showing:
  - (1) The names and dates of contacts with witnesses;
  - (2) A summary of correspondence and other contacts with the aggrieved person and the respondent showing the dates of the correspondence and contacts;
  - (3) A summary description of other pertinent records;
  - (4) A summary of witness statements; and
  - (5) Answers to interrogatories.
- (b) A final report under this Section may be amended if additional evidence is discovered.

**Section 9-60 - Temporary or Preliminary Relief.**

- (a) If the Administrator concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this Article, the Administrator may request the City Attorney to initiate a civil action in state district court in Bexar County, Texas, for appropriate temporary or preliminary relief pending final disposition of the complaint.
- (b) Upon receipt of the Administrator's request, the City Attorney shall promptly file an action in the state district court.
- (c) A temporary restraining order or other order granting preliminary or temporary relief under this Section is governed by the applicable Texas Rules of Civil Procedure.

**Section 9-61 - Conciliation.**

- (a) The Administrator shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the Administrator, to the extent feasible, engage in conciliation with respect to

the complaint.

- (b) A conciliation agreement is a written agreement between a respondent and the complainant and is subject to Administrator approval.
- (c) A conciliation agreement may provide for binding arbitration, mediation or other method of dispute resolution. Any Alternative Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.
- (d) A conciliation agreement shall be made public unless the complainant and respondent agree otherwise, and the Administrator determines that disclosure is not necessary to further the purposes of this Article.
- (e) Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this Article without the written consent of the persons concerned.
- (f) After completion of the Administrator's investigation, the Administrator shall make available to the aggrieved person and the respondent, at any time, information derived from the investigation and the final investigation report related to the investigation.

**Section 9-62 - Violation of Conciliation Agreement.**

- (a) A person commits an offense if, after the person executes a conciliation agreement under Section 9-61 entitled "Conciliation" he or she violates any term or condition contained in the agreement.
- (b) It is not a defense to criminal prosecution in municipal court or to civil action in state district court under this Section that, with respect to a discriminatory housing practice that gave rise to the conciliation agreement under Section 9-61:
  - (1) The respondent did not commit the discriminatory housing practice; or
  - (2) The Administrator did not have probable cause to believe the discriminatory housing practice was committed.
- (c) If the Administrator determines that a conciliation agreement has been violated, the Administrator shall give written notice to all parties subject to the agreement.
- (d) When the Administrator has reasonable cause to believe that a respondent has breached a conciliation agreement, the Administrator shall refer the

matter to the City Attorney's Office with a recommendation that a civil action be filed for the enforcement of the agreement. The Administrator shall also file a criminal action in municipal court for a violation of the agreement.

**Section 9-63 - Reasonable Cause Determination.**

- (a) The Administrator shall determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice occurred or is about to occur.
- (b) The Administrator shall make the determination under Subsection (A) of this Section not later than the 100th day after the date a complaint is filed unless:
  - (1) It is impracticable to make the determination; or
  - (2) The Administrator has approved a conciliation agreement relating to the complaint.
- (c) If it is impracticable to make the determination within the time period provided by Subsection (B) of this Section, the Administrator shall notify the complainant and respondent in writing of the reasons for the delay.
- (d) If the Administrator determines that reasonable cause exists to believe that a discriminatory housing practice occurred or is about to occur, the Administrator shall, except as provided by Section 9-65 entitled "Dismissal", immediately issue a charge on behalf of the aggrieved person.

**Section 9-64 - Charge.**

- (a) A charge issued under Section 9-63 entitled, "Reasonable cause determination":
  - (1) Must consist of a short and plain statement of the facts on which the Administrator has found reasonable cause to believe that a discriminatory housing practice occurred or is about to occur;
  - (2) Must be based on the final investigative report; and
  - (3) Need not be limited to the facts or grounds alleged in the complaint.
- (b) If the City Attorney determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred, the City Attorney

shall issue to the Administrator a short and plain written statement of the facts upon which the City Attorney based the no reasonable cause determination.

- (c) Any charge issued by the Administrator will be forwarded within ten (10) days to the City Attorney for action as herein provided. Copies of the charge will be served within ten (10) days of receipt by the City Attorney on the complainant, the aggrieved person, if different from the complainant, and any respondents.
  
- (c) The Administrator may not issue a charge and the City Attorney may not bring or maintain a civil action in state district court for an alleged discriminatory housing practice after the aggrieved person has brought a civil action under local, state, or federal law seeking relief for the alleged discriminatory housing practice. If a charge may not be issued by the Administrator or a civil action may not be brought or maintained by the City Attorney because of the trial of a civil action brought by the aggrieved party, the Administrator shall notify the complainant, the aggrieved person if different from the complainant, and the respondent, in writing.

**Section 9-65 - Dismissal.**

- (a) A complaint may be dismissed by the Administrator if:
  - (1) The complaint was not filed within the required time period;
  - (2) The location of the alleged discriminatory housing practice is not within the City's jurisdiction;
  - (3) The alleged discriminatory housing practice is not a violation of this Article;
  - (4) The complainant or aggrieved person refuses to cooperate with the administrator in the investigation of the complaint or enforcement of the executed conciliation agreement;
  - (5) The complainant, or the aggrieved person if different from the complainant, cannot be located after the administrator has performed a reasonable search; or
  - (6) A conciliation agreement has been executed by the respondent, complainant, and aggrieved person (if different from the complainant).

- (b) A criminal action may be dismissed by a municipal judge upon motion of the City Attorney, if after the City Attorney files the action charging a respondent with a discriminatory housing practice, a conciliation agreement is executed before the trial begins in municipal court.
- (c) The Administrator shall notify the complainant, the aggrieved person if different from the complainant, and the respondent of the dismissal of the complaint, including a brief written statement of facts. The fact of dismissal and the names of parties shall be available to the public upon written request.

## **DIVISION VI – Enforcement**

### **Section 9-66 – Civil Action in State District Court.**

- (a) If a respondent has been found by the Administrator and the City Attorney to have breached an executed conciliation agreement or if the Administrator has issued a charge under Section 9-64, the City Attorney, upon the request of the Administrator, shall initiate and maintain a civil action on behalf of the aggrieved person in the state district court seeking relief under this chapter. Venue is in Bexar County, Texas.
- (b) An aggrieved person may intervene in the action.
- (c) If the court finds in the civil action that the conciliation agreement has been violated or a discriminatory housing practice has occurred, the court may award to the plaintiff:
  - (1) actual and punitive damages;
  - (2) civil penalties payable to the City for vindication of the public interest in an amount that does not exceed:
    - (A) \$10,000 if the respondent has not been adjudged by order of a court to have committed a prior discriminatory housing practice;
    - (B) except as provided by Subsection (d) of this Section, \$25,000 if the respondent has been adjudged by order of a court to have committed one other discriminatory housing practice during the five-year period ending on the date of the filing of the charge; and
    - (C) except as provided by Subsection (d) of this Section, \$50,000 if the respondent has been adjudged by order of a court to have committed two or more discriminatory housing practices

during the seven-year period ending on the date of the filing of the charge.

(D) If the acts constituting the discriminatory housing practice that is the subject of the charge are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties in Subparagraphs (b) and (c) of this paragraph may be imposed without regard to the period of time within which any other discriminatory housing practice occurred;

(3) reasonable attorney's fees;

(4) costs of court; and

(5) any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the discriminatory housing practice or ordering appropriate affirmative action.

(d) If actual damages are sought for the benefit of an aggrieved person who does not intervene in the civil action, the court may not award the actual damages if the aggrieved person has not complied with discovery orders entered by the court.

(e) The City shall not be subject to orders for sanctions for the failure of the complainant, if other than the Administrator, or aggrieved person to comply with discovery requests of the defendant or discovery orders of the court.

(f) Any resolution of a charge before a final order is signed by the state district court under this Section requires the consent of the aggrieved person on whose behalf the charge is issued.

#### **Section 9-67 - Enforcement by Private Persons**

(a) An aggrieved person may file a civil action in District Court not later than two years after the occurrence of the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this Article, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing practice or breach.

(b) The two (2) year period does not include any time during which an administrative hearing under this Article is pending with respect to a complaint or charge under this Article based on the discriminatory housing

practice. This Subsection does not apply to actions arising from a breach of a conciliation agreement.

- (c) An aggrieved person may file an action under this Section whether or not a complaint has been filed under Section 9-55 entitled, "Complaint," and without regard to the status of any complaint filed under that Section.
- (d) If the Administrator has obtained a conciliation agreement with the consent of an aggrieved person, the aggrieved person may not file an action under this Section with respect to the alleged discriminatory housing practice that forms the basis for the complaint except to enforce the terms of the agreement.
- (e) An aggrieved person may not file an action under this Section with respect to an alleged discriminatory housing practice that forms the basis of a charge issued by the Administrator if the Administrator has begun a hearing on the record under this Article with respect to the charge.

#### **Section 9-68 - Relief.**

In an action under this Article, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff:

- (a) Compensatory and punitive damages;
- (b) Reasonable attorney's fees;
- (c) Court costs; and
- (d) Subject to the Section 9-69 entitled, "Effect of relief granted" any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or ordering appropriate affirmative action.

#### **Section 9-69 - Effect of relief granted.**

Relief granted under this Article 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, encumbrance, or tenant who did not have actual notice of the filing of a complaint under this Article or a civil action under this Article.

#### **Section 9-70 - Intervention by City Attorney.**

On request of the Administrator the City Attorney may intervene in an action if the Administrator determines that the case is of general public importance.

**DIVISION X – Criminal Penalty**

**Section 9-71 – Criminal Penalties for Violation**

- (a) A person who violates a provision of Division III, or Section 9-62 of this Article 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 Article is punishable in municipal court by a fine of not less than \$250.00 nor more than \$2,000.00.

**DIVISION XI – Miscellaneous**

**Section 9-72. Service of notice and computation of time.**

- (a) For purposes of this Article, any notice, paper, or document required to be served on any person under this chapter may be served in person or by United States mail to the person's last known address.
- (b) When service is by mail, three (3) days will be added to the prescribed time period allowed under this chapter for timely filing.
- (c) Service is complete and time periods begin to run at the time the required notice, paper, or document is delivered in person or deposited in a United States postal receptacle.

**Section 9-73. Additional remedies.**

The procedures prescribed by this Article 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.

**Section 9-74. Education and public information.**

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

**Section 9-75. Effect on other law.**

This Article does not affect any local, state, or federal restriction:

- (a) On the maximum number of occupants permitted to occupy a dwelling unit; or,
- (b) Relating to health or safety standards.

**AFFIDAVIT OF PUBLICATION**

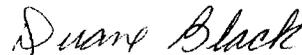
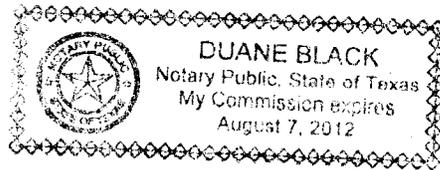
Before me, the undersigned authority, on this day personally appeared Helen I. Lutz, who being by me duly sworn, deposes and says that she is the Publisher of ***The Hart Beat***; that said newspaper is generally circulated in San Antonio, Bexar County, Texas; that the attached notice was published in said newspaper on the following date(s):

**May 20, 2009**

Subscribed and sworn to before me this 20th day of May, 2009, to certify which witness my hand and seal of office.



*Helen I. Lutz, Publisher*



*Notary Public in and for the State of Texas*

Duane Black

*Name of Notary*

*My commission expires August 7, 2012*

**PUBLIC NOTICE**

**AN ORDINANCE**  
**2009-05-14-0385**

**AMENDING CHAPTER 9,  
ARTICLE III OF THE CITY CODE  
OF SAN ANTONIO, TEXAS  
ENTITLED "DISCRIMINATORY  
HOUSING PRACTICES", TO  
INCLUDE A PROHIBITION  
AGAINST DISCRIMINATION IN  
HOUSING BASED ON FAMIL-  
IAL STATUS, ESTABLISHING  
PROCEDURES FOR ADMINIS-  
TRATIVE ACTION AND EN-  
FORCEMENT, ESTABLISHING  
PENALTIES AND FINES FOR  
VIOLATIONS, AND PROVIDING  
FOR PUBLICATION; AND AUT-  
HORIZING THE SUBMISSION  
OF THE REVISED FAIR HOUS-  
ING CODE FOR THE CITY OF  
SAN ANTONIO TO THE U. S.  
DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT.**

**PASSED AND APPROVED**  
this 14th day of May, 2009.

**/S/ PHIL HARDBERGER**  
**MAYOR**

**ATTEST: LETICIA VACEK**  
**CITY CLERK**  
5/20