

**GENERAL ORDINANCE NO. 32, 2003
AS AMENDED**

AN ORDINANCE TO CREATE ARTICLE 15. FAIR HOUSING IN CHAPTER 2 OF
THE TERRE HAUTE CITY CODE.

Section 1. The Terre Haute City Code is hereby amended by the insertion in Chapter 2 of Article 15. Fair Housing as follows:

ARTICLE 15. FAIR HOUSING

Sec. 2-190 Purpose.

The purposes of this Article are the following:

- a. To adopt an ordinance pursuant to I.C. 22-9-1-12.1 to effectuate the public policy set forth in I.C. 22-9-1-2 within the City of Terre Haute, Indiana;
- b. To provide fair housing rights and remedies; and
- c. To provide fair housing law that is substantially equivalent to federal law (Title VIII of the Civil Rights Acts of 1988).

Sec. 2-191 Definitions.

The definitions in this Section apply throughout this Article.

- a. **Aggrieved Person.** Includes any person who:
 - (1) claims to have been injured by a discriminatory housing practice; or
 - (2) believes that the person will be injured by a discriminatory housing practice that is about to occur.
- b. **Commission.** Refers to the Terre Haute Human Relations Commission designated by General Ordinance No. 4, 1999, as amended now or hereafter amended.
- c. **Complainant.** A person, including the Commission, who files a complaint under this Article.
- d. **Conciliation.** The attempted resolution of issues raised by a Complainant or by the investigation of a complaint, through informal negotiations involving the Aggrieved Person, the

respondent, and the Commission.

e. **Conciliation Agreement.** A written agreement setting forth the resolution of the issues in Conciliation.

f. **Director.** Refers to the Executive Director hired by the Commission pursuant to G.O. No. 4, 1999, as now or hereafter amended.

g. **Discriminatory Housing Practice.** An act prohibited by I.C. 22-9.5-5 or this Article.

h. **Dwelling.** Shall mean:

(1) any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residency by one (1) or more families; or

(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 by subsection (1).

i. **Family.** Includes a single individual.

j. **Disabled.**

(1) Shall mean, with respect to a person:

(a) a physical or mental impairment that substantially limits one (1) or more of the person's major life activities.

(b) a record of having an impairment described in subsection (1); or

(c) being regarded as having an impairment described in subsection (1).

(2) The term does not include current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(3) The term does not include an individual solely because that individual is a transvestite.

k. **Person.** One or more individuals, corporations, limited liability companies, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11, receivers, and fiduciaries.

1. **Respondent.** Shall mean:

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

(2) any person identified as an additional or a substitute respondent under this Article or an agent of an additional or a substitute respondent.

m. **To Rent.** Includes to lease, to sublease, to let, or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

Sec. 2-192 Exemptions - Sale or Rental of Single-Family Homes, Rooms or Units in Certain Dwellings.

a. Subject to Subsection b. of this Section, Sections 2-206 through 2-214 do not apply to the following:

(1) The sale or rental of a single-family house sold or rented by an owner if:

(a) the owner does not:

1. Own more than three single-family houses at any one time, or

2. Own any interest in, nor is there owned or reserved on the owner's 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 single-family houses at any one time, and

(b) The house was sold or rented without:

1. The use of the sale or rental facilities or services of a real estate broker, an agent or a salesman licensed under I.C. 25-34.1; or of an employee or agent of a licensed broker, or agent or a salesman; or the facilities or services of the owner of a dwelling designed or intended for occupancy by five (5) or more families, or

2. The publication, posting or mailing of a notice, a statement or an advertisement prohibited by Sec. 2-207.

(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 in Subsection a.(1) of this Section applies to only one sale or rental in a twenty-four (24) month period if the owner was not the most recent resident of the house at the time of the sale or rental.

Sec. 2-193 Exemptions – Religious Organizations.

This Article does not prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from:

a. Limiting the sale, rental or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion; or

b. Giving preference to persons of the same religion, unless membership in such religion is restricted because of race, color or national origin.

Sec. 2-194 Exemptions – Private Club.

This Article does not prohibit a private club, not in fact open to the public, which as an incident to the club's primary purpose, provides lodging which the club owns or operate for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members, unless membership in such club is restricted because of race, color or national origin.

Sec. 2-195 Exemptions – Housing for Older Persons.

a. As used in this Article, "Housing for Older Persons" means housing that the Commission determines is:

(1) Specifically designed and operated to assist elderly persons under a federal or state program;

(2) Intended for, and solely occupied by, persons at least sixty-two (62) years of age;
or

(3) Intended and operated for occupancy by at least one person at least fifty-five (55) years of age in each unit.

b. Housing that includes units that are unoccupied or that are occupied by person

who do not meet the age requirements of Subsection a.(2) or a.(3) of this Section does not fail to meet the requirements for housing for older persons if:

(1) The unoccupied units are reserved for persons who meet the age requirements of Subsection a.(2) or a.(3) of this Section;

(2) The occupants who do not meet the age requirements of said Subsection a.(2) or a.(3) have resided in the housing since September 13, 1988, or an earlier date, and the persons who became occupants after September 13, 1988, meet the age requirements of said Subsection a.(2) or a.(3).

c. The Commission shall adopt rules to establish criteria for making determinations under Subsection a. of this Section. These rules must include at least the following provisions:

(1) Except as provided in Subsection c.(2) of this Section, the housing must provide significant facilities and services specifically designed to meet the physical or social needs of older persons.

(2) If the provision of the facilities and services described in Subsection c.(1) of this Section is not practicable, the housing must be necessary to provide important housing opportunities for older persons.

(3) At least eight percent (80%) of the units must be occupied by at least one person who is at least fifty-five (55) years of age.

(4) The owner or manager of the housing must publish and adhere to policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons who are at least fifty-five (55) years of age.

d. The provisions of Sections 2-206 through 2-214 relating to familial status do not apply to housing for older persons.

Sec. 2-196 Exemptions – Appraisals of Property.

This Article does not prohibit 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 or national origin.

Sec. 2-197 Health or Safety Restrictions – Other Laws Not Affected.

a. This Article does not affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling, or a restriction relating to health or safety

standards.

b. This Article does not affect a requirement of nondiscrimination in any other state or federal law.

Sec. 2-198 Administration of Article.

The Commission shall administer this Article.

Sec. 2-199 Adoption of Rules.

The Commission may adopt rules necessary to implement this Article.

Sec. 2-200 Action on Complaints Alleging Violations.

As provided by Sec. 2-219, the Commission shall receive, investigate, conciliate and act on complaints alleging violations of this Article.

Sec. 2-201 Delegation of Powers and Duties to Director.

The Commission may, by rule, authorize the Director hired by the Commission to exercise the Commission's powers or perform the Commission's duties under this Article.

Sec. 2-202 Cooperation with Other Entities.

The Commission shall cooperate with and, as appropriate, may seek or 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.

Sec. 2-203 Subpoenas and Discovery Provisions.

a. The Commission may issue subpoenas and order discovery as provided by this Article in aid of investigations and hearing under this Article.

b. Subpoenas and discovery in aid of investigations may be ordered to the same extent and are subject to the same limitations as subpoenas and discovery in a civil action in a circuit court. Subpoenas and discovery in aid of hearings are subject to I.C. 4-21.5.

Sec. 2-204 Deferral and Transfer of Complaints.

a. The Commission may defer proceedings under this Article and transfer a complaint to the Indiana Civil Rights Commission if the Indiana Civil Rights Commission has been recognized by

the United State Department of Housing and Urban Development as having adopted statutes providing fair housing rights and remedies that are substantially equivalent to the rights and remedies granted under federal law.

b. The Commission may defer proceedings under this Article and transfer a complaint to the Department of Housing and Urban Development pursuant to the rules and regulations of the Commission and of the Department of Housing and Urban Development.

Sec. 2-205 Acceptance of Gifts and Grants.

The Commission may accept gifts and grants from any public or private source for the purpose of administering this Article.

Sec. 2-206 Discrimination in Connection with Sale or Rental of Dwellings Prohibited – Exception.

a. A person may not refuse to sell or to rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, disability, or national origin.

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 of a dwelling, because of race, color, religion, sex, familial status, disability or national origin.

c. This Article does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

Sec. 2-207 Discriminatory Notices, Statements or Advertising Prohibited.

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 or national origin, or an intention to make such a preference, limitation or discrimination.

Sec. 2-208 Representations Regarding Availability of Dwelling for Inspection.

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

Sec. 2-209 Representations Regarding Entry of Certain Persons 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 or national origin.

Sec. 2-210 Persons with a Disability – Discrimination Prohibited.

a. A person may not discriminate in the sale or rental or otherwise make available or deny a dwelling to any buyer or renter because of a disability of:

- (1) The buyer or renter;
- (2) A person residing in or intending to reside in the dwelling after the dwelling is sold, rented or made available; or
- (3) Any person associated with the buyer or renter.

b. A person may not discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of:

- (1) The person;
- (2) A person residing in or intending to reside in the dwelling after the dwelling is sold, rented or made available; or
- (3) Any person associated with the person.

c. For purposes of this Section only, “discrimination” includes the following:

(1) A refusal to permit, at the expense of or on behalf of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person with a disability if the modifications may be necessary to afford the person full enjoyment of the premises.

- (a) A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a manner that is consistent with the quality of the existing premises and that any required building permits will be obtained.

- (b) A landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the premises, at the end of the tenancy, to the condition that existed before the modification, reasonable wear and tear excepted.
- (c) The landlord may not increase for persons with a disability any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the estimated cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

(2) A refusal to make reasonable accommodations in rules, policies, practices or services, when the accommodations may be necessary to afford the person with a disability equal opportunity to use and enjoy a dwelling.

(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 parts of the dwellings are readily accessible to and usable by persons with a disability.
- (b) All the doors are designed to allow passage into and within all premises within the dwellings and are sufficiently wide to allow passage by persons with a disability in wheelchairs; and
- (c) All premises within the dwellings contain the following features of adaptive design:
 1. An accessible route into and through the dwelling;
 2. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.
 3. Reinforcements in bathroom walls to allow later installation of grab bars; and
 4. Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

d. As used in Subsection c. of this Section, “covered multifamily 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.

e. Compliance with the rules of a fire prevention and/or building safety authority that incorporate by reference the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (ANSI A117.1) satisfies the requirements of Subsection c.(3)(c) of this Section.

f. This Section does not require 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.

Sec. 2-211 Residential Real Estate Related Transaction Defined.

As used in Sections 2-206 through 2-214, “residential real estate transaction” means the following: Making or purchasing loans or providing other financial assistance:

a. To purchase, construct, improve, repair or maintain a dwelling.

b. To secure residential real estate.

Sec. 2-212 Discrimination Prohibited – Selling, Brokering or Appraising Residential Real Property.

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 or national origin.

Sec. 2-213 Discrimination Prohibited; Brokers’ Organizations, Services or Facilities.

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 or national origin.

Sec. 2-214 Coercion, Intimidation, Threats or Interference.

A person may not coerce, intimidate, threaten or interfere with any other person:

- a. In the exercise or enjoyment of any right granted or protected by this Article; or
- b. Because the person has exercised or enjoyed, or has encouraged another person in the exercise or enjoyment of, any right granted or protected by this Article.

Sec. 2-215 Administrative Enforcement; Investigation of Discriminatory Housing Practices; Filing of Complaint; Amendment; Notice.

The Commission shall investigate alleged discriminatory housing practices.

a. A complaint concerning an alleged discriminatory housing practice as defined in this Article must be filed not later than ~~one hundred and eighty (180)~~ ninety (90) days after an alleged discriminatory housing practice has occurred or terminated, whichever is later.

b. A complaint under this Article may be reasonably and fairly amended at any time.

c. When a complaint is filed under this Article, the Commission shall do the following:

(1) Give the aggrieved person notice that the complaint has been received;

(2) Advise the aggrieved person of the time limits and choice of forums under this Article;

(3) Not later than twenty (20) days after the filing of the complaint or the identification of an additional respondent under Sec. 2-218, serve on 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 Article.

b. A copy of the original complaint.

Sec. 2-216 Administrative Enforcement; Complaint Response.

a. Not later than ten (10) days after receipt of the notice and copy under Sec. 2-215 c.(3), a respondent may file an answer to the complaint.

b. An answer must be:

- (1) In writing;
- (2) Under oath; and
- (2) In the form prescribed by the Commission.
- c. An answer may be reasonably and fairly amended at any time with the consent of the Director.
- d. An answer does not inhibit the investigation of a complaint.

Sec. 2-217 Administrative Enforcement; Investigation of Complaints Referred by Federal Government.

a. If the federal government or the state has referred a complaint to the Commission or has deferred jurisdiction over the subject matter of the complaint to the Commission, the Commission shall promptly investigate the allegations set forth in the complaint.

b. The Commission shall investigate all complaints, except as provided by Subsection c. of this Section, shall complete an investigation not later than one hundred (100) days after the date the complaint is filed, or if the Commission is unable to complete the investigation within the one hundred (100) day period, shall dispose of all administrative proceedings related to the investigation not later than one (1) year after the date the complaint is filed.

c. If the Commission is unable to complete the investigation within the time periods prescribed by Subsection b. of this Section, the Commission shall notify the complainant and the respondent in writing of the reasons for the delay.

Sec. 2-218 Administrative Enforcement; Joinder of Additional or Substitute Respondents.

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

b. In addition to the information required in the notice under Sec. 2-215c.(3), the Commission 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.

Sec. 2-219 Administrative Enforcement; Conciliation Agreements.

a. The Commission shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the Commission, to the extent feasible, engage in

conciliation with respect to the complaint.

b. A conciliation agreement is an agreement between a respondent and the complainant and is subject to Commission approval.

c. A conciliation agreement may provide for binding arbitration or other methods of dispute resolution. 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 Commission 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 Commission's investigation, the Commission shall make available to the aggrieved person and the respondent, at any time, information derived from the investigation and the final investigation report relating to that investigation.

Sec. 2-220 Administrative Enforcement; Action for Temporary Relief or Preliminary Relief.

a. If the Commission 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 Commission may file a civil action for appropriate temporary relief or preliminary relief pending final disposition of the complaint in a circuit or superior court that is located in the county in which the alleged discriminatory housing practice occurred.

b. A temporary restraining order or other order granting preliminary or temporary relief under this Section is governed by the Indiana Rules of Trial Procedure.

c. The filing of a civil action under this Section does not affect the initiation or continuation of administrative proceedings under Sec. 2-228.

Sec. 2-221 Administrative Enforcement; Final Investigative Report.

a. The Commission shall prepare a final investigative report showing the following:

(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;
 - (5) Answers to interrogatories.
- b. A final report under this Article may be amended if additional evidence is discovered.

Sec. 2-222 Administrative Enforcement; Determination of Probable Cause.

- a. The Commission shall determine based on the facts whether probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur.
- b. The Commission shall make the determination under Subsection a. of this Section not later than one hundred (100) days after the date a complaint is filed unless:
- (1) It is impracticable to make the determination; or
 - (2) The Commission 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 Commission shall notify the complainant and respondent in writing of the reasons for the delay.
- d. If the Commission determines that probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall immediately issue a finding of probable cause on behalf of the aggrieved person.

Sec. 2-223 Administrative Enforcement; Finding of Probable Cause; Contents; Copies.

- a. A finding of probable cause issued under Sec. 2-222:
- (1) Must consist of a short and plain statement of the facts on which the Commission has found probable cause to believe that a discriminatory housing practice has 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. Not later than twenty (20) days after the Commission issues a finding of probable cause, the Commission shall send a copy of the finding of probable cause with the information concerning the election under Sec. 2-226 to the following:

(1) Each respondent, together with a notice of the opportunity for a hearing provided by Sec. 2-228;

(2) Each aggrieved person on whose behalf the complaint was filed.

Sec. 2-224 Administrative Enforcement; Dismissal of Complaint.

a. If the Commission determines that no probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall promptly dismiss the complaint.

b. The Commission shall make public disclosure of each dismissal under this Section.

Sec. 2-225 Administrative Enforcement; Finding of Probable Cause Precluded after Commencement of Civil Actions.

The Commission may not issue a finding of probable cause under this Article regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing practice.

Sec. 2-226 Administrative Enforcement; Election To Have Claims Decided in Civil Action.

a. A complainant, a respondent or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in a finding of probable cause decided in a civil action as provided in Sec. 2-227.

b. The election must be made not later than twenty (20) days after the date of receipt by the electing person of service under Sec. 2-223b. or, in the case of the Commission, not later than twenty (20) days after the date the finding of probable cause was issued.

c. The person making the election shall give notice to the Commission and to all other complainants and respondents to whom the finding of probable cause relates.

Sec. 2-227 Administrative Enforcement; Filing of Civil Action; Intervention by Aggrieved Persons; Granting Relief.

~~a. — If a timely election is made under Sec. 2-226, the Commission shall within five (5) days of the Commission's receipt of the election, transfer the complaint to the Indiana Civil Rights Commission for the Indiana Civil Rights Commission to file a civil action on behalf of the aggrieved party. Upon such transfer, neither the City of Terre Haute nor the Commission shall be a party to such action.~~

a. If timely election is made under Sec. 2-226, the Commission shall, not later than thirty (30) days after the election is made, file a civil action on behalf of the aggrieved person seeking relief under this Section in a circuit or superior court that is located in the county in which the alleged discriminatory housing practice occurred.

b. An aggrieved person may intervene in the action, as permitted by the court.

c. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief that a court may grant in a civil action under I.C. 22-9.5-7.

d. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court may not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the court.

Sec. 2-228 Administrative Enforcement; Hearing.

a. If a timely election is not made under Sec. 2-226, the Commission shall provide for a hearing on the finding of probable cause.

b. Except as provided by Subsection c. of this Section, I.C. 4-21.5 governs a hearing and an appeal of a hearing under this Section.

c. A hearing under this Section may not continue regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved person under federal or state law seeking relief with respect to that discriminatory housing practice.

Sec. 2-229 Administrative Enforcement; Order for Appropriate Relief; Penalties.

a. If the Commission determines at a hearing under Sec. 2-228 that a respondent has engaged in or is about to engage in a discriminatory housing practice, the Commission may order the appropriate relief, including actual damages, reasonable attorney's fees, court costs and other

injunctive or equitable relief.

b. To vindicate the public interest, the Commission may assess a civil penalty against the respondent in an amount that does not exceed the following:

(1) Ten Thousand Dollars (\$10,000.00) if the respondent has not been adjudged by order of the Commission or a court to have committed a prior discriminatory housing practice.

(2) Except as provided by Subsection c. of this Section, Twenty Five Thousand Dollars (\$25,000.00) if the respondent has been adjudged by order of the Commission or a court to have committed one other discriminatory housing practice during the five (5) year period ending on the date of the filing of the finding of probable cause.

(3) Except as provided by Subsection c. of this Section, Fifty Thousand Dollars (\$50,000.00) if the respondent has been adjudged by order of the Commission or a court to have committed two (2) or more discriminatory housing practices during the seven (7) year period ending on the date of the filing of the finding of probable cause.

c. If the acts constituting the discriminatory housing practice that is the object of the finding of probable cause are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties in Subsections b.(2) and (3) of this Section may be imposed without regard to the period of time within which any other discriminatory housing practice occurred.

d. The Commission may sue to recover a civil penalty due under this Section.

Sec. 2-230 Administrative Enforcement; Certain Contracts, Sales, Encumbrances or Leases Unaffected by Order.

A Commission order under Sec. 2-229 does not affect a contract, a sale, an encumbrance or a lease that:

a. Was consummated before the Commission issued the order; and

b. Involved a bona fide purchaser, an encumbrancer, or a tenant who did not have actual notice of the finding of probable cause filed under this Article.

Sec. 2-231 Administrative Enforcement; Respondents Subject to Licensing or Regulation by Governmental Agencies.

If the Commission issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the

Commission shall, not later than thirty (30) days after the date of the issuance of the order:

- a. Send copies of the findings and the order to the governmental agency; and
- b. Recommend to the governmental agency appropriate disciplinary action.

Sec. 2-232 Administrative Enforcement; Issuance of Subsequent Orders to Same Respondent.

If the Commission issues an order against a respondent against whom another order was issued within the preceding five (5) years under Sec. 2-229, the Commission shall send a copy of each order issued under that section to the Attorney General.

Sec. 2-233 Enforcement by Private Persons; Filing of Action by Aggrieved Person.

a. Pursuant to I.C. 22-9.5-7-1, an aggrieved person may file a civil action in the circuit or superior court located in the county in which the alleged discriminatory practice occurred not later than one (1) year 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 one (1) year period does not include any time during which an administrative hearing under this Article is pending with respect to a complaint or finding of probable cause 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 this Article and without regard to the status of any complaint filed under this Article.

d. If the Commission 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 finding of probable cause issued by the Commission if the Commission has begun a hearing on the record under this Article with respect to the finding of probable cause.

Sec. 2-234 Enforcement by Private Persons; Award of Relief.

If the court finds that a discriminatory housing practice has occurred or is about to occur in a civil action under this Article, pursuant to I.C. 22-9.5-7-2, the court may award to the prevailing party the following:

- a. Actual and punitive damages;
- b. Reasonable attorney's fee;
- c. Court costs;
- d. Subject to I.C. 22-9.5-7-3, any permanent or temporary injunction, temporary restraining order or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.

Sec. 2-235 Enforcement by Private Persons; Certain Contracts, Sales, Encumbrances or Leases Unaffected by Relief Granted.

Relief granted under this Article does not affect a contract, a sale, an encumbrance or a lease that:

- a. Was consummated before the granting of the relief; and
- b. Involved a bona fide purchaser, an encumbrancer or a tenant who did not have actual notice of the filing of a complaint or a civil action under this Article.

Sec. 2-236 Intervention by Commission.

- a. The Commission may intervene in a civil action in the circuit or superior court under this Article if the Commission determines that the case is of general public importance.
- b. The Commission may obtain the same relief available to the Commission under Sec. 2-238.

Sec. 2-237 Enforcement by the Commission; Filing of Civil Action.

- a. Pursuant to I.C. 22-9.5-8.1-1, the Commission may file a civil action for appropriate relief if the Commission has probable cause to believe that:
 - (1) A person is engaged in a pattern or practice of resistance to the full enjoyment of any right granted by this Article; or
 - (2) A person has been denied any right granted by this Article and that denial raises an

issue of general public importance.

b. An action under this Section may be filed in a circuit or superior court located in the county in which the alleged pattern, practice or denial occurred.

Sec. 2-238 Enforcement by the Commission; Award of Relief.

In a civil action filed under Sections 2-237 through 2-240, the court may do the following:

a. Award preventative relief, including a permanent or temporary injunction, restraining order or other order against the person responsible for a violation of this Article as necessary to assure the full enjoyment of the rights granted by this Article.

b. Award other appropriate relief, including monetary damages, reasonable attorney's fees and court costs;

c. To vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed the following:

(1) Fifty Thousand Dollars (\$50,000.00) for a first violation;

(2) One Hundred Thousand Dollars (\$100,000.00) for a second or subsequent violation.

Sec. 2-239 Enforcement by the Commission; Intervention in Civil Action.

A person may intervene in a civil action under Sections 2-237 through 2-240 if the person is:

a. An aggrieved person to the discriminatory housing practice; or

b. A party to a conciliation agreement concerning the discriminatory housing practice.

Sec. 2-240 Enforcement of Subpoena.

The Commission attorney, on behalf of the Commission or other party at whose request a subpoena is issued under this Article, may enforce the subpoena in appropriate proceedings in the circuit or superior court.

Sec. 2-241 Attorney's Fees and Court Costs.

A court in a civil action brought under this Article, or the Commission in an administrative hearing under Sec. 2-228, may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party.

SECTION 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

WHEREAS, an emergency exists for the immediate taking effect of the ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, Indiana and approval of the Mayor and publication as required by law.

Introduced by: Chuck Miles, Councilman, Chuck Miles

Passed in open Council this 8th day of July, 2004.

[Signature]
PRESIDENT, Cliff Lambert

ATTEST: Charles Hanley, City Clerk, Charles P. Hanley

Presented by me to the Mayor this 8th day of July, 2004.

Charles Hanley
CITY CLERK, Charles P. Hanley

Approved by me, the Mayor, this 8th day of July, 2004.

[Signature]
MAYOR, Kevin D. Burke

ATTEST: Charles Hanley, City Clerk, Charles P. Hanley

Haute, Indiana and approval of the Mayor and publication as required by law.

Introduced by: _____, Councilman, Chuck Miles

Passed in open Council this _____ day of _____, 2004.

PRESIDENT, Cliff Lambert

ATTEST: _____, City Clerk, Charles P. Hanley

Presented by me to the Mayor this _____ day of _____, 2004.

CITY CLERK, Charles P. Hanley

Approved by me, the Mayor, this _____ day of _____, 2004.

MAYOR, Kevin D. Burke

ATTEST: _____, City Clerk, Charles P. Hanley

