

Chapter 7 1

2/FAIR HOUSING*

* **Editors Note:** Ord. No. O-07-012, §§ 1--13, adopted June 21, 2007, did not specifically amend the Code; hence, inclusion herein as Ch. 7 1/2 was at the discretion of the editor. See also the Code Comparative Table.

Sec. 7 1 2-1./Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words so used in the present tense include the future, words in the masculine gender include the feminine, words in the plural number include the singular, and words in the singular number include the plural.

Discriminatory housing practice means an act that is unlawful under sections 7 1/2-2, 7 1/2-3, or 7 1/2-4 of this chapter.

Dwelling means any building, structure or portion thereof which is occupied as, or designed and intended for occupancy as a residence by one (1) or more families or any vacant land which is offered for sale or lease for the construction or location of any such building, structure, or portion thereof.

Family includes a single individual.

Person includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, un-incorporated organizations, trustees, fiduciaries, and any other organization or entity of whatever character.

To rent includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
(Ord. No. O-07-012, § 1, 6-21-07)

Sec. 7 1 2-2./Discrimination in the sale or rental of housing.

Except as exempted by section 7 1/2-5, it shall be unlawful for any person to:

- (1) Refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, sex, religion, disability or handicap, familial status, or natural origin;
- (2) 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 therewith, because of race, color, sex, religion, disability or handicap, familial status, or natural origin;

- (3) Make, print, publish, or cause to be made, printed, or published any notice, statement or advertisement regarding the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, sex, religion, disability or handicap, familial status, or national origin, or an intention to make any such preference, limitation or discrimination;
- (4) Represent to any person because of race, color, sex, religion, disability or handicap, familial status, or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;
- (5) For profit or with the hope or expectation of profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, sex, religion, disability or handicap, familial status, or national origin;
- (6) For profit or with the hope or expectation of profit to influence or attempt to influence, by any words, acts, or failure to act, any seller, purchase, landlord or tenant of a dwelling so as to promote the maintenance of racially segregated housing or so as to retard, obstruct, or discourage racially integrated housing.

(Ord. No. O-07-012, § 2, 6-21-07)

Sec. 7 1 2-3./Discrimination in the financing of 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 of the making of commercial or residential real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, construction, improving, repairing or maintaining a dwelling; or to discriminate against any such person the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or other financial assistance, because of:

- (1) The race, color, sex, religion, disability or handicap, familial status, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance; or
- (2) The race, color, sex, religion, disability or handicap, familial status, or national origin of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made of given.

(Ord. No. O-07-012, § 3, 6-21-07)

Sec. 7 1 2-4./Discrimination in the provision of brokerage services.

It shall be unlawful for any person to deny access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership or particular account of race, color, sex, religion, disability or handicap, familial status, or national origin.

(Ord. No. O-07-012, § 4, 6-21-07)

Sec. 7 1 2-5./Exemptions and exclusions.

- (a) There shall be exempted from the application of section hereof all transactions involving:
 - (1) The rental of units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other if the owner actually maintains and occupies one (1) of such units as his residence;
 - (2) The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one (1) family if the person offering such room for rental actually maintains and occupies the remainder of such dwelling as his residence and not more than four (4) such rooms are offered.
 - (3) The sale or rental of any single house by a private individual who owns such house, provided that:
 - a. The sale or rental is made 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 of renting dwellings or of any employee or agent of any such broker, agent, salesman or person; and
 - b. The sale is made without the publication, posting or mailing of any advertisement or written notice in violation of section 7 1/2-2(3) of this chapter (this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer of title); and
 - c. The owner does not own more than three (3) single-family houses at the time of the sale; and
 - d. The 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 any portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one (1) time; and
 - e. If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four-month period.
- (b) Nothing in this chapter 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 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 person, unless membership in such religion is restricted on account of race, color, sex, disability or handicap, familial status, or national origin.
- (c) Nothing in this chapter shall bar any person from owning and operating a housing

accommodation in which a room or rooms are leased, subleased or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.

(Ord. No. O-07-012, § 5, 6-21-07)

Sec. 7 1 2-6./Fair housing administrator.

The mayor shall appoint and council shall confirm a fair housing administrator (hereinafter referred to as "administrator"), who shall have the responsibility for implementing this chapter. The administrator may delegate his authority to investigate and conciliate complaints to other city employees under his direction.

(Ord. No. O-07-012, § 6, 6-21-07)

Sec. 7 1 2-7./Complaints.

(a) Only the person who claims to have been injured by a discriminatory housing practice or who believes he will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring (hereafter referred to as "person aggrieved") may file a complaint with the administrator. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The administrator shall prepare complaint forms and furnish them to any person, upon request.

(b) If at any time the administrator shall receive or discover credible evidence and shall have probably cause to believe that any person or persons have committed or are committing a discriminatory housing practice as to which no complaint has been filed, the administrator may prepare and file a complaint upon his own motion and in his own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.

(c) The administrator shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of Title VIII, Fair Housing Act of 1968, Public Law 90-284, and shall treat such complaints hereunder in the same manner as complaints filed pursuant to paragraph (a).

(d) All complaints shall be filed within sixty (60) days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the administrator shall provide notice of the complaint by furnishing a copy of such complaint to the person or persons named therein who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The accused may file an answer to the complaint within fifteen (15) days of receipt of the written complaint.

(e) All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.

(Ord. No. O-07-012, § 7, 6-21-07)

Sec. 7 1 2-8./Investigation.

(a) Upon filing referral of a complaint provided, the administrator shall cause to be made a prompt

and full investigation of the matter stated in the complaint.

(b) During or after the investigation, but subsequent to the mailing of the notice of complaint, the administrator shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the provisions of this chapter. Nothing said or done in the course of such informal endeavors may be made public by the administrator, by the complainant or by any other party to the proceedings without the written consent of all persons concerned.

(c) Upon completion of the investigation and informal endeavors at conciliation by the administrator, but within thirty (30) days of the filing of the complaint with the administrator, if the efforts of the administrator to secure voluntary compliance have been unsuccessful, and if the administrator has made a determination that a discriminatory housing practice has in fact occurred, the administrator shall recommend to the city attorney that such violation be prosecuted in the Municipal Court of the City of Brenham. With such recommendation, the administrator shall refer his entire file to the city attorney. The city attorney shall, within thirty (30) days after such referral make a determination as to whether to proceed with prosecution of such complaint in municipal court. If the city attorney determines to prosecute, he shall institute a complaint and prosecute same to conclusion within thirty (30) days after such determination, or as soon thereafter as practical. (Ord. No. O-07-012, § 8, 6-21-07)

Sec. 7 1 2-9./Cumulative legal effect.

This chapter is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue. (Ord. No. O-07-012, § 9, 6-21-07)

Sec. 7 1 2-10./Unlawful intimidation.

It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because he or they have complied with the provisions of this chapter, because he or they have exercised his or their rights under this chapter, or enjoyed the benefits of this chapter, or because he or they have made a charge, testified or assisted in any manner in any investigation, or in any proceeding hereunder or have made any report to the administrator. (Ord. No. O-07-012, § 10, 6-21-07)

Sec. 7 1 2-11./Cooperation with Secretary of Housing and Urban Development.

The administrator and the city attorney are authorized to cooperate with the Secretary for Housing and Urban Development and the U.S. Attorney General pursuant to the provisions of the Title VIII, Fair Housing Act of 1968, Public Law 90-284, and may render such service to the Secretary as they shall deem appropriate to further the policies of the chapter. (Ord. No. O-07-012, § 11, 6-21-07)

Sec. 7 1 2-12./Education and public information.

In order to further the objectives of this chapter, the administrator may conduct educational and public

information programs.
(Ord. No. O-07-012, § 12, 6-21-07)

Sec. 7 1 2-13./Penalty.

Any person, firm, or corporation violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction, shall be fined a sum not to exceed five hundred dollars (\$500.00) for each violation. Each day a violation continues after passage of seventy-five (75) days from date of the filing of the initial complaint with the administrator shall constitute a separate and distinct offense.

Any person, firm, or corporation violating any provision of this chapter may be enjoined by a suit filed by the city in a court of competent jurisdiction, and this remedy is in addition to any other penalty provision.
(Ord. No. O-07-012, § 13, 6-21-07)