

Print

Hopkinsville, KY Code of Ordinances

## CHAPTER 92: FAIR HOUSING

---

Section

### ***Discrimination***

- 92.01 Policy of city
- 92.02 Definitions
- 92.03 Unlawful practices by individuals; exceptions
- 92.04 Unlawful practices by financial institutions
- 92.05 Unlawful representations
- 92.06 Powers and duties of Human Relations Commission
- 92.07 Grievance procedure
- 92.08 Failure to obey order of Commission
  
- 92.99 Penalty

***Statutory reference:***

*Cities may prohibit discrimination, see KRS 344.300*

*Unlawful housing practices, see KRS 344.360*

## DISCRIMINATION

### **§ 92.01 POLICY OF CITY.**

It is the policy to safeguard all individuals within the city from discrimination because of race, color, religion or national origin in connection with real estate transactions; thereby to protect their interest in personal dignity and freedom from humiliation, to make available to the city their full productive capacities, and to preserve the public safety, health, and general welfare.

(Ord. 6-71, passed 3-2-1971)

### **§ 92.02 DEFINITIONS.**

For the purpose of §§ 92.01 through 92.08, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COMMISSION.** The Human Relations Commission.

**COMMISSIONER.** A member of the Commission.

**DISCRIMINATION.** Any direct or indirect act or practice of exclusion, distinction, restriction, degradation, limitation, refusal, denial or any other act, practice or differentiation or preference in the treatment of a person or persons because of race, color, religion or national origin.

**HOUSING ACCOMMODATION.** A building, structure or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home or residence of one or more individuals.

**PERSON.** One or more individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers or legal or commercial entity; the city or any of its agencies.

**REAL ESTATE BROKER or REAL ESTATE SALESPERSON.** An individual, whether licensed or not, who, for a fee, commission, salary or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate such an activity; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate a loan secured by mortgage or other encumbrance upon a transfer of real estate; or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he or she undertakes to promote the sale, purchase, exchange, rental or lease of real estate through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

**REAL PROPERTY.** Buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums and hereditaments, corporeal and incorporeal.

(Ord. 6-71, passed 3-2-1971)

## § 92.03 UNLAWFUL PRACTICES BY INDIVIDUALS; EXCEPTIONS.

(A) Except as provided in division (B) below, it is an unlawful housing practice for a person having the right to sell, exchange, rent or lease any property, or for a real estate operator, a real estate broker, real estate salesperson or any person employed by or acting on behalf of any of these:

- (1) To refuse to sell, exchange, rent or lease or otherwise deny to or withhold real property from any person because of race, color, religion, sex, familial status, disability or national origin;
- (2) To discriminate against any person because of his or her race, color, religion, sex, familial status, disability or national origin in the terms, conditions or privileges of the sale, exchange, rental or lease of real property or in the furnishings of facilities or services in connection therewith;
- (3) To refuse to receive or transmit a bona fide offer to purchase, rent or lease real property from any person because of his or her race, color, religion, sex, familial status, disability or national origin;
- (4) To refuse to negotiate for the sale, rental or lease of real property to any person because of his or her race, color, religion, sex, familial status, disability or national origin;
- (5) To represent to any person that real property is not available for inspection, sale, rental or lease when in fact it is so available, or to refuse to permit any person to inspect real property because of his or her race, color, religion, sex, familial status, disability or national origin;

(6) To make, print, circulate, post or mail or cause to be printed, circulated, posted or mailed an advertisement or sign, or to use a form of application for the purchase, rental or lease of real property, or to make a record or inquiry in connection with the prospective purchase, rental or lease of real property, which indicates directly or indirectly a limitation, specification or discrimination as to race, color, religion, sex, familial status, disability or national origin, or an intent to make such a limitation, specification or discrimination;

(7) To offer, solicit, accept, use or retain a listing of real property for sale, rental or lease with the understanding that any person may be discriminated against in the sale, rental or lease of that real property or in the furnishing of facilities or services in connection therewith because of his or her race, color, religion, sex, familial status, disability or national origin;

(8) Otherwise to deny or withhold real property from any person because of his or her race, color, religion, sex, familial status, disability or national origin;

(9) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a housing accommodation to any buyer or renter because of a disability of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that housing accommodation after it is so sold, rented or made available; or

(c) Any person associated with that buyer or renter.

(10) To 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 such housing accommodation, because of a disability of:

(a) That person;

(b) A person residing in or intending to reside in that housing accommodation after it is sold, rented, or made available; or

(c) Any person associated with that person.

(11) For purposes of this section, discrimination includes:

(a) A refusal, to permit at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by a person, if the modifications may be necessary to afford the 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;

(b) A refusal to make reasonable accommodations in rules, policies, practices or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a housing accommodation; or

(c) In connection with the design and construction of covered multifamily housing accommodations for first occupancy after January 1, 1993, a failure to design and construct those housing accommodations in a manner ensuring that they have at least one entrance on an accessible route unless impracticable to do so because of the terrain or unusual characteristics of the site. Housing accommodations with a building entrance on an accessible route shall comply with the following requirements:

1. The public use and common use portions of the housing accommodations shall be readily accessible to and usable by disabled persons;

2. All the doors designed to allow passage into and within all premises within the housing accommodations shall be sufficiently wide to allow passage by disabled persons in wheelchairs; and

3. All premises within the housing accommodations shall contain the following features of adaptive design:

- a. An accessible route into and through the housing accommodation;
- b. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;
- c. Reinforcements in bathroom walls to allow later installation of grab bars; and
- d. Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(12) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled persons, (commonly cited as "ANSI A117.1 - 1986") suffices to satisfy the requirements of division (A)(11)(c)3. of this section;

(13) As used in division (A)(11) of this section, the term **COVERED MULTI-FAMILY HOUSING ACCOMMODATION** means:

- (a) Buildings consisting of four or more units if the buildings have one or more elevators; and
- (b) Ground floor units in other buildings consisting of two or more units.

(14) Nothing in this division requires that a housing accommodation 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.

(KRS 344.360)

(B) *Exceptions.*

(1) The provisions of division (A) above do not apply:

(a) To the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or a member of his or her family resides in one of the housing accommodations;

(b) To the rental of one room or one rooming unit in a housing accommodation by an individual if he or she or a member of his or her family resides therein; or

(c) To a religious institution, or to an organization operated for charitable or educational purposes, which is operated, supervised or controlled by a religious corporation, association or society, to the extent that the religious corporation, association or society, limits or gives preferences in, the sale, lease, rental, assignment or sublease of real property to individuals of the same religion, or makes a selection of buyers, tenants, lessees, assignees or sublessees, that is calculated by the religious corporation, association or society to promote the religious principles for which it is established or maintained.

(2) Nothing in this chapter shall be construed to affect the legal rights of a private individual homeowner to dispose of his or her property through private sale without the aid of any real estate operator, broker or salesperson and without advertising or public display.

(3) Nothing in this chapter shall require a real estate operator to negotiate with any individual who has not shown evidence of financial ability to consummate the purchase or rental of a housing accommodation.

(Ord. 6-71, passed 3-2-1971) Penalty, see § 92.99

**Statutory reference:**

*Exemption from housing provisions, see KRS 344.365*

## **§ 92.04 UNLAWFUL PRACTICES BY FINANCIAL INSTITUTIONS.**

It is an unlawful practice for a financial institution or an individual employed by or acting on behalf of a financial institution:

(A) To discriminate against an individual because of the race, color, religion or national origin, sex or age of the individual or the present or prospective owner, tenant or occupant of the real property or of a member, stockholder, director, officer, employee or representative of any of these, in the granting, withholding, extending, modifying or renewing, the rates, terms, conditions, privileges or other provisions of financial assistance or in the extension of services in connection therewith;

(B) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicate directly or indirectly, a limitation, specification or discrimination as to race, color, religion or national origin or an intent to make such a limitation, specification or discrimination; or

(C) To discriminate by refusing to give full recognition, because to sex, to the income of each spouse or the total income and expenses of both spouses where both spouses become or are prepared to become joint or several obligors in real estate transactions.

(Ord. 6-71, passed 3-2-1971) Penalty, see § 92.99

**Statutory reference:**

*Unlawful financial practices, see KRS 344.370*

## **§ 92.05 UNLAWFUL REPRESENTATIONS.**

It is an unlawful practice for a real estate operator, a real estate broker, a real estate salesperson, a financial institution, an employee of any of these or any other person, for the purpose of inducing a real estate transaction from which a person may benefit financially:

(A) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion, sex, familial status, disability or national origin of the owners or occupants in the block, neighborhood or area in which the real property is located;

(B) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood or area in which the real property is located; or

(C) To 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, religion, sex, disability, familial status or national origin.

(KRS 344-380) (Ord. 6-71, passed 3-2-1971) Penalty, see § 92.99

## § 92.06 POWERS AND DUTIES OF HUMAN RELATIONS COMMISSION.

In the enforcement of this chapter, the city's Human Relations Commission has the following powers and duties:

- (A) To meet and exercise its powers at any place within the city;
- (B) To employ attorneys, hearing examiners, clerks and other employees and agents;
- (C) To accept gifts or bequests, grants or other payments, public or private, to help finance its activities;
- (D) To receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon complaints alleging violations of this chapter;
- (E) To issue remedial orders, after notice and hearing, requiring cessation of violations;
- (F) To issue such affirmative orders as in the judgment of the Commission will carry out the purposes of this subchapter, including, but not limited to, the remedies enumerated in KRS 344.230;
- (G) To adopt, promulgate, amend and rescind rules and regulations to effectuate the purposes and provisions of this chapter, including regulations requiring the posting of notices prepared or approved by the Commission;
- (H) To administer oaths; and/or
- (I) To compel the attendance of witnesses and the production of evidence before it by subpoena issued by the circuit court.

(Ord. 6-71, passed 3-2-1971)

### **Cross-reference:**

*Human Relations Commission, see §§ 33.045 through 33.056*

### **Statutory reference:**

*Powers of local commissions, see KRS 344.320 and 344.330*

## § 92.07 GRIEVANCE PROCEDURE.

(A) An individual claiming to be aggrieved by an unlawful practice, or a member of the Human Relations Commission, may file with the Commission a written (sworn) complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based and setting forth fact sufficient to enable the Commission to identify the persons charged (hereinafter the respondent). The complaint must be filed within three months after the alleged unlawful practice occurs.

(B) The Commission shall make a prompt and full investigation of each complaint.

(C) If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the Commission shall issue an order dismissing the complaint.

(D) If it is determined, after investigation, that there is probable cause to believe that the respondent has engaged in an unlawful practice, the Commission shall endeavor to eliminate the alleged unlawful practice by conference, conciliation and persuasion. The terms of a conciliation agreement reached with a respondent may require him or her to refrain from the committing of

unlawful discriminatory practices in the future and make such further provisions as may be agreed upon between the Commission or its staff and the respondent. Except for the terms of the conciliation agreement, neither the Commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation or persuasion whether or not there is a determination of probable cause or a conciliation agreement.

(E) In any case of failure to eliminate the alleged unlawful practice by means of conference, conciliation and persuasion, the Commission shall hold a public hearing to determine whether or not an unlawful practice has been committed. The Commission shall serve upon the respondent a statement of the charges made in the complaint and a notice of the time and place of the hearing. The hearing shall be held not less than ten days after the service of the statement of the charges made in the complaint and a notice of the time and place of the hearing. The respondent shall have the right to file an answer, to appear at the hearing in person or to be represented by an attorney and to examine and cross-examine witnesses.

(F) If the Commission determines that the respondent has not engaged in an unlawful practice, the Commission shall state its findings of fact and conclusion of law and shall issue an order dismissing the complaint.

(G) If the Commission determines that the respondent has engaged in an unlawful practice, the Commission shall state its findings of fact and conclusion of law and shall issue an order requiring the respondent to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the Commission will carry out the purpose of this chapter.

(H) In connection with an investigation of a complaint filed under this chapter and resolution, the Commission or its designated representative at any reasonable time may request access to premises, records and documents relevant to the complaint and to examine, photograph and copy evidence.

(Ord. 6-71, passed 3-2-1971)

### **§ 92.08 FAILURE TO OBEY ORDER OF COMMISSION.**

In the event the respondent fails to comply with any order issued by the Human Relations Commission, the Commission shall either:

(A) File a complaint for enforcement in the county circuit court pursuant to the provisions of KRS 344.340; or

(B) Certify the case and the entire record of its proceedings to the city prosecuting attorney for prosecution.

(Ord. 6-71, passed 3-2-1971)

### **§ 92.99 PENALTY.**

Any person who violates any provision of §§ 92.01 through 92.08 shall be subject to such penalties as provided for in KRS Chapter 344.

(Ord. 6-71, passed 3-2-1971)