

FAIR HOUSING

[Editor's Note: Chapter 12, Article 1 was adopted in its entirety by Ordinance No. 24-93, 8/3/93]

Article 1. Fair Housing Regulations

§12-101 FAIR HOUSING; PURPOSE. The purpose of this Article is to promote the general welfare of the residents of Seward, Nebraska, by endorsing the provisions of the Nebraska Fair Housing Act, sections 20-301 through 20-344 RS Neb., to the effect that there shall be no discrimination in the City of Seward, Nebraska, in the acquisition, ownership, possession or enjoyment of housing in accordance with Article 1, Section 25, of the Constitution of the State of Nebraska. (Ref. 20-113 RS Neb.)

§12-102 FAIR HOUSING; DEFINITIONS. As used in this Article unless the context otherwise requires:

- 1) Aggrieved person shall include any person who: a) claims to have been injured by a discriminatory housing practice, or b) believes that he or she will be injured by a discriminatory housing practice that is about to occur; the effective date of this ordinance;
- 2) Commission shall mean the Nebraska Equal Opportunity Commission;
- 3) Dwelling shall mean any building, structure, or portion thereof which is occupied as or designed or intended for occupancy as a residence for one or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof;
- 4) Familial status shall mean one or more minors being domiciled with: a) a parent or another, person having legal custody of such individual; or b) the designee of a parent or other person having legal custody, with written permission of the parent of other person;
- 5) Handicap shall mean, with respect to a person: a) a physical or mental impairment, excluding the current illegal use of or addiction to a controlled substance as defined in section 28-401 RS Neb., which substantially limits one or more of such persons major life activities, b) a record of having such an impairment, or c) being regarded as having such an impairment;
- 6) Person shall include one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-

stock companies; trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries;

- 7) Rent shall include lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant; and
- 8) Restrictive covenant shall mean any specification limiting the transfer, rental, or lease of any housing because of race, creed, religion, color, national origin, sex, handicap, familial status, or ancestry.

(Ref. 20-304 through 20-317 RS Neb.)

§12-103 FAIR HOUSING; UNLAWFUL ACTS. Except as exempted by section 12-107, it shall be unlawful to:

- 1) Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of or otherwise make unavailable or deny, refuse to show, or refuse to receive and transmit an offer for a dwelling to any person because of race, color, religion, national origin, familial status, or sex;
- 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, religion, national origin, familial status, or sex;
- 3) Make, print, 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, national origin, handicap, familial status, or sex or an intention to make any such preference, limitation, or discrimination;
- 4) Represent to any person because of race, color, religion, national origin, handicap, familial status, or sex that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;
- 5) Cause to be made any written or oral inquiry or record concerning the race, color, religion, national origin, handicap, familial status, or sex of a person seeking to purchase, rent, or lease any housing;
- 6) Include in any transfer, sale, rental, or lease of housing any restrictive covenants or honor or exercise or attempt to honor or exercise any restrictive covenant pertaining to housing;
- 7) Discharge or demote an employee or agent or discriminate in the compensation of such employee or agent because of such employee's compliance with this Article or the Nebraska Fair Housing Act; and

- 8) Induce or attempt to induce, for profit, 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, national origin, handicap, familial status, or sex.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any minor. (Ref. 20-318 RS Neb.)

§12-104 FAIR HOUSING; HANDICAPPED PERSON; DISCRIMINATORY PRACTICES PROHIBITED; DESIGN AND CONSTRUCTION STANDARDS.

- 1) Except as exempted by section 12-107, it shall be unlawful to:
 - a) Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:
 - i) The buyer or renter;
 - ii) Any person associated with the buyer or renter; or
 - iii) A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available; or
 - b) 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 a dwelling because of a handicap of:
 - i) Such person;
 - ii) Any person associated with such person; or
 - iii) A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available.
- 2) For purposes of this section, discrimination shall include:
 - a) A refusal to permit, at the expense of the handicapped person reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of rental, the landlord may, when 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 such accommodations may be necessary to afford the handicapped person equal opportunity to use or enjoy a dwelling; and
 - c) In connection with the design and construction of covered multifamily

dwellings for first occupancy after September 1, 1991, a failure to design and construct the dwellings in such a manner that:

- i) The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;
 - ii) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
 - iii) All premises within the dwellings contain the following features of adaptive design:
 - A) An accessible route into and through the dwelling;
 - 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) Kitchens and bathrooms such that a handicapped person in a wheelchair can maneuver about the space.
- 3) Compliance with the appropriate requirements of the American National Standards Institute standard for buildings and facilities providing accessibility and usability for physically handicapped people, ANSI A117.1, shall satisfy the requirements of subdivision (2)(c)(iii) of this section.
- 4) For purposes of this section, covered multifamily dwellings shall mean:
- a) Buildings consisting of four or more units if such buildings have one or more elevators; and
 - b) Ground floor units in other buildings consisting of four or more units.
- 5) Nothing in this section shall 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.

(Ref. 20-319 RS Neb.)

§12-105 FAIR HOUSING; TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE; DISCRIMINATORY PRACTICES PROHIBITED.

- 1) It shall be unlawful for any person or other entity whose business includes engaging in transactions related to residential real estate to discriminate against any person in making available such a transaction because of race, color, religion, sex, handicap, familial status, or national origin.
- 2) For purposes of this section, transaction related to residential real estate shall mean any of the following:

- a) The making or purchasing of loans or providing other financial assistance:
 - i) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - ii) Secured by residential real estate; or
 - b) The selling, brokering, or appraising of residential real property.
- 3) Nothing in this section shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, handicap, familial status, or sex.
(Ref. 20-320 RS Neb.)

§12-106 FAIR HOUSING; MULTIPLE LISTING SERVICE; OTHER SERVICE; DISCRIMINATORY PRACTICES PROHIBITED. It shall be unlawful to deny any person 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 against any person in the terms or conditions of such access, membership, or participation on account of race, color, religion, national origin, handicap, familial status, or sex. (Ref. 20-321 RS Neb.)

§12-107 FAIR HOUSING; RELIGIOUS ORGANIZATION, PRIVATE HOME; PRIVATE CLUB, OR HOUSING FOR OLDER PERSONS; RESTRICTING USE NOT PROHIBITED.

- 1) Nothing in this Article shall 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 limiting the sale, rental, or occupancy of a dwelling which it owns or operates for other than commercial purposes to persons of the same religion or from giving preferences to such persons unless membership in such religion is restricted on account of race, color, national origin, handicap, familial status, or sex.
- 2) Nothing in this Article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.
- 3) Nothing in this Article shall prohibit or limit the right of any person or his or her authorized representative to refuse to rent a room or rooms in his or her own home for any reason or for no reason or to change tenants in his or her own home as often as desired, except that this exception shall not apply to any

person who makes available for rental or occupancy more than four sleeping rooms to a person or family, within his or her home.

- 4) Nothing in this Article regarding familial status shall apply with respect to housing for older persons. For purposes of this subsection, housing for older persons shall mean housing:
 - a) Provided under any state program that the commission determines is specifically designed and operated to assist elderly persons or defined in the program;
 - b) Intended for and solely occupied by persons sixty-two (62) years of age or older; or
 - c) Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit. (Ref. 20-322 RS Neb.)

§12-108 FAIR HOUSING; INFORMATION. The Municipal Clerk upon request shall make available to an aggrieved person, or any other person, information regarding the Nebraska Fair Housing Act and the Nebraska Equal Opportunity Commission without cost to such individual. (Ref. 20-301 through 20-322 RS Neb.)

§12-901 Article 9. Subdivision Annexation §12-904

§12-901 SUBDIVISION ANNEXATION; PETITION FOR ANNEXATION. Any subdivision in which there are lands dedicated to the City or any subdivision serviced by public utilities shall be annexed to the City. Before approval for the final plat is given, the Municipal Body shall receive a Petition for annexation from the owners of the subdivided properties.

§12-902 ANNEXATION; PROCEDURE. Except as provided in Neb. Rev. Stat. §13-1111 to 13-1120 and subject to this section, the mayor and City Council may by ordinance include within the corporate limits of the City any contiguous or adjacent lands, lots, tracts, streets, or highways as are urban or suburban in character and in such direction as may be deemed proper. Such grant of power shall not be construed as conferring power upon the mayor and City Council to extend the limits of the City over any agricultural lands which are rural in character.

The City Council, proposing to annex land under the authority of this section, shall first adopt both a resolution stating that the City is proposing the annexation of the land and a plan for extending city services to the land. The resolution shall state:

- A) The time, date, and location of the public hearing required by Section 5 of this ordinance;
- B) A description of the boundaries of the land proposed for annexation; and

- C) That the plan of the City for the extension of city services to the land proposed for annexation is available for inspection during regular business hours in the office of the city clerk.

The plan adopted by the City Council shall contain sufficient detail to provide a reasonable person with a full and complete understanding of the proposal for extending city services to the land proposed for annexation.

The plan shall (A) state the estimated cost impact of providing the services to such land; (B) state the method by which the city plans to finance the extension of services to the land and how any services already provided to the land will be maintained; (C) include a timetable for extending services to the land proposed for annexation; and (D) include a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the City, the proposed boundaries of the City after the annexation, and the general land use pattern in the land proposed for annexation.

A public hearing on the proposed annexation shall be held within 60 days following the adoption of the resolution proposing to annex land, to allow the City Council to receive testimony from interested persons. The Council may recess the hearing, for good cause, to a time and date specified at the hearing.

A copy of the resolution providing for the public hearing shall be published in the official newspaper in the City at least once not less than ten days preceding the date of the public hearing. A map drawn to scale delineating the land proposed for annexation shall be published with the resolution. A copy of the resolution providing for the public hearing shall be sent by first class mail following its passage to the school board of any school district in the land proposed for annexation.

Any person or other legal entity owning real property contiguous or adjacent to the City's corporate limits may by petition request that such property be included within the corporate limits of the City.

In order for the City to consider such petition, it must have attached thereto a plat and dedication prepared by Nebraska licensed surveyor setting forth (A) a complete legal description of the property to be annexed; (B) a certificate of the city planning director that the petition and attachments comply with all zoning and subdivision rules and regulations of the City; (C) the complete name of all owners of the property to be annexed and their interest in the property; and (D) a complete description of all water wells, septic tanks, drain fields or other utilities located on the property to be annexed.

If the petition and supporting documents are determined sufficient, the mayor and Council may include such property within the corporate limits of the City without

complying with the notice and hearing requirements as set forth herein.

Notwithstanding the above, the Mayor and City Council are not required to approve any petition requesting annexation or any resolution or ordinance proposing to annex land pursuant to the above provisions. (Amended by Ord 40-07,12-04-2007)

§12-903 SUBDIVISION ANNEXATION; VARIANCES. The Planning Commission may recommend, and the Legislative Body may grant, variances from the provision of these Regulations but only after determining that:

- a. There are unique circumstances or conditions affecting the property.
- b. The variance is necessary for the reasonable and acceptable development of the property in question.
- c. The granting of the variance will not be detrimental to the public welfare or injurious to adjacent property.

The requirement of filing and recording a plat for subdivision shall not be waived.

§12-904 SUBDIVISION ANNEXATION; AMENDMENTS. Any provision of these regulations from time to time may be amended, supplemented, changed, modified, or repealed by the Governing Body according to law; provided, however, that such amendments supplements, changes, modifications or repealed provisions shall not become effective until after study and report by the Planning Commission.