

## **Title 2. Civil Rights**

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### **Article 1 Community Relations**

#### **Chapter 1 Public Policy**

##### **2.1.1.1 Equal opportunity.**

Sec. 1 (a) It is the public policy of the City of Goshen to provide all of its citizens equal opportunity for education, employment, access to public conveniences and accommodations, and acquisition through purchase or rental of real property, including but not limited to housing, and to eliminate segregation or separation based solely on race, religion, color, sex, disability, national origin or ancestry, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property are declared to be civil rights to be protected by the City of Goshen by the means of this Code article and 2.2 of this Code.

(b) The practice of denying these rights to properly qualified persons by reason of the race, religion, color, sex, disability, national origin, or ancestry of such person is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of the City and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, disability, national origin, or ancestry through reasonable methods is the purpose of this Code article.

(c) It is also the public policy of the City to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders, and lending institutions from unfounded charges of discrimination.

(d) It is declared to be contrary to the public policy of the City and an unlawful practice for any person, for profit, 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, religion, color, sex, disability, national origin, or ancestry.

(Ord. 4339, § 1, 2-7-2006)

##### **2.1.1.2 Commission created.**

Sec. 2 There is created a local civil rights commission to be known as the Goshen Community

Relations Commission to effectuate within the City limits of Goshen the public policy of the City as declared in 2.1.1.1 of this Code.

(Ord. 4339, § 1, 2-7-2006)

### **2.1.1.3 Membership of Commission; Appointment; Term; Vacancies; Removal**

Sec. 3 (a) The Goshen Community Relations Commission shall consist of nine (9) members, all who must be residents of the City of Goshen.

(b) The Mayor shall appoint five (5) members of the Commission, and the Goshen Common Council shall appoint four (4) members of the Commission. In making the appointments to the Commission, the appointing authority shall take into consideration all interests in the community's diversity.

(c) Members of the Commission shall be appointed within sixty (60) days after the adoption of this ordinance. Members shall initially be appointed to serve the following terms:

- 1) Two (2) members appointed by the Mayor and one (1) member appointed by the Common Council shall serve an initial term of one (1) year.
- 2) One (1) member appointed by the Mayor and two (2) members appointed by the Common Council shall serve an initial term of two (2) years.
- 3) Two (2) members appointed by the Mayor and one (1) member appointed by the Common Council shall serve an initial term of three (3) years.

(d) After the initial term expires, successors to all members shall be appointed for a term of three (3) years. All terms expire on the first Monday in January, but a member continues in office until his or her successor is appointed.

(e) If a vacancy occurs on the Commission, then the appointing authority shall appoint a successor to serve the remainder of the unexpired term.

(f) The appointing authority may remove a member from the Commission for cause which shall include repeated failure to attend meetings of the Commission; failure or refusal to discharge duties as a Commissioner; commission of a felony; willful or repeated failure or refusal to follow lawful procedures in the conduct of office; or gross misconduct bringing the member, the City or the Commission into discredit. Commission members will automatically be removed for missing in excess of four (4) scheduled meetings during a calendar year unless an exception is made for an excuse ruled acceptable by the appointing authority. In the event of such removal, the appointing authority shall certify in writing to the member and the Community Relations Director the cause for

such removal.

(Ord. 4339, § 3, 2-7-2006)

#### **2.1.1.4 Meetings; Officers; Quorum**

Sec. 4 (a) At the first meeting of every calendar year, the Commission shall elect from among its membership a Chairperson who shall serve until the first meeting of the following calendar year.

(b) The Commission shall hold one (1) regular meeting each month, and such called meetings as its Chairperson may deem to be necessary.

(c) A minimum of six (6) members of the Commission must be present to constitute a quorum. It shall take the concurrence of a majority of the Commission membership present at a proper quorum to take official action.

(Ord. 4339, § 4, 2-7-2006)

#### **2.1.1.5 Powers and duties.**

Sec 5 (a) The Commission may study and recommend to the Common Council programs and policies that enhance communications and understanding among all residents of the community.

(b) The Commission may develop and maintain programs that build positive relations among the community and enhance problem-solving skills among residents throughout the community.

(c) The Commission shall establish and maintain an office in the City.

(d) The Mayor may appoint a Community Relations Director, subject to the approval of the Community Relations Commission. The Director shall serve at the pleasure of the Mayor and may be dismissed without cause. Attorneys, other employees and agents may be hired by the City as authorized by the Community Relations Commission. The Goshen Common Council must appropriate funds for the payment of the Director, attorneys, other employees or agents before such individuals may commence work for the Commission. All such attorneys, employees and agents may be dismissed with or without cause.

(e) Except as it concerns judicial review, the Commission may, adopt, promulgate, amend and rescind such procedural rules and regulations, as are consistent with the provisions of this Code article and state laws, or its intent and purpose as the Commission may deem necessary. A majority of the entire membership of the Commission is required to adopt, amend or rescind any rules and regulations of the Commission.

(f) The Commission shall formulate policies to effectuate the purposes of this Code article and

make recommendations to the Common Council to effectuate such policies.

(g) The Commission shall receive and investigate complaints alleging practices that are contrary to the public policy stated in this Code article or that are in violation of 2.2 of this Code. All investigations of complaints shall be conducted by the Community Relations Director or his or her designee. If the investigation demonstrates that the complaint warrants further action, the Community Relations Director shall encourage the parties to reach an amicable resolution of the issues which may include mediation if both parties agree. If the parties are unable to resolve the issues and the Director has found that the complaint has merit, the Commission shall conduct a hearing in accordance with the provisions of Indiana Code 22-9-1 and Indiana Code 22-9.5-6 et al. The Commission shall not hold hearings in the absence of a complaint.

(h) The Commission may issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religion, color, sex, disability, national origin, or ancestry

(i) The Commission shall prevent any person from discharging, expelling, or otherwise discriminating against any other person because he or she filed a complaint, testified in any hearing before this Commission, or in any way assisted the Commission in any matter under its investigation.

(j) The Commission may hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and require the production for examination of any books and papers relating to any matter under investigation or in question before the Commission. The Commission may make rules as to the issuance of subpoenas by individual commissioners. Contumacy or refusal to obey a subpoena issued under this Code section shall constitute a contempt. All hearings shall be held within the City of Goshen at a location determined by the Commission. A citation of contempt may be issued upon application by the Commission to the circuit or superior court in the county in which the hearing is held or in which the witness resides or transacts business.

(k) The Commission shall state its findings of fact after a hearing and, if the Commission finds a person has engaged in an unlawful discriminatory practice, shall cause to be served on this person an order requiring the person to cease and desist from the unlawful discriminatory practice. If the Commission finds that a person has engaged in an unlawful discriminatory practice, the cease and desist order shall require the person to take further affirmative action as will effectuate the purposes of this Code article, including but not limited to the power:

- 1) To restore complainant's losses incurred as a result of discriminatory treatment, as the Commission may deem necessary to assure justice, however, this specific provision when applied to orders pertaining to employment shall include only wages, salary, or commissions.

- Credit shall be given, in appropriate instances, from earnings received elsewhere than from the respondent and complainant must make a good faith effort to mitigate damages;
- 2) To require the posting of notice setting forth the public policy of the state of Indiana and the City of Goshen concerning civil rights and respondent's compliance with the policy in places of public accommodations;
  - 3) To require proof of compliance to be filed by respondent at periodic intervals; and
  - 4) To require a person who has been found to be in violation of this Code article and who is licensed by a state agency authorized to grant a license to show cause to the licensing agency why this person's license should not be revoked or suspended.

(l) If, upon all the evidence, the Commission shall find that a person has not engaged in any unlawful practice or violation of this Code article, the Commission shall state its findings of facts and shall issue and cause to be served on the complainant an order dismissing the complaint as to the person.

(m) The Commission may furnish technical assistance requested by persons subject to this Code article to further compliance with this Code article or with an order issued thereunder.

(n) The Commission may conduct conciliation proceedings between the parties. Under certain circumstances and with the consent of the Community Relations Director and written permission from the complainant and agreement by the employer, to attempt to resolve an allegation of discrimination prior to the filing of the complaint. Following a failed resolution proceeding, and after the filing of the complaint, the Commission shall have the power to conduct hearings to find facts, reach conclusions, and issue orders in proper cases that the respondent cease and desist any discriminatory practice found to exist within the scope of the complaint and the evidence.

(o) The Commission may reduce the terms of conciliation agreed to by the parties to writing (to be called a consent agreement) that the parties and a majority of the commissioners shall sign. When signed, the consent agreement shall have the same effect as a cease and desist order issued under 2.1.1.5 (k) above. If the Commission determines that a party to the consent agreement is not complying with it, the Commission may obtain enforcement of the consent agreement in a circuit or superior court upon showing that the party is not complying with the consent agreement and the party is subject to the Commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.

(p) In lieu of investigating a complaint and holding a hearing under this Code section, the Commission may issue an order based on findings and determinations by the federal Department of

Housing and Urban Development or the federal Equal Employment Opportunity Commission concerning a complaint that has been filed with one of these federal agencies and with the Commission. The Commission shall adopt by rule standards under which the Commission may issue such an order.

(q) Upon notice that a complaint is the subject of an action in a state or federal court, the Commission shall immediately cease investigation of the complaint and may not conduct hearings or issue findings of fact or orders concerning that complaint.

(r) The Commission may sue to recover civil damages ordered by the Commission to be paid or enforce the terms of any valid order of the Commission.

(s) All procedures carried on by the Commission shall be in accordance and compliance with Indiana Code 22-9-1, and when applicable, Indiana Code 22-9-5 and Indiana Code 22-9.5-6.

(t) The Commission shall submit to the Mayor and Common Council an annual report of the Commission's activities, including the number of complaints filed with respect to each type of alleged discrimination, the number of cases in each category disposed of, the number still pending, and such other information as may be requested by the Mayor or Common Council or as the Commission may see fit to include.

(u) 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 Code article or 2.2 of this Code, the Commission may file a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint in a civil or superior court located in Elkhart County in accordance with Indiana Code 22-9.5-6-6.

(Ord. 4339, § 5, 2-7-2006)

#### **2.1.1.6 Judicial review.**

Sec. 6 (a) Either the complainant or the respondent may seek judicial review of a final order of the Commission, if aggrieved by such order.

(b) All proceedings for judicial review of final orders shall be governed by the Administrative Adjudication Act, Section 4-21.5 et. seq. of the Indiana Code, as may be amended. If no proceeding to obtain judicial review is instituted within thirty (30) days from the date of receipt of notice by a person that an order has been made by the Commission, the Commission, if it determines that the person upon whom a cease and desist order has been served is not complying or is making no effort to comply, may obtain a decree of a court for the enforcement of the order in circuit or superior court

upon showing that the person is subject to the Commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.

(c) For purpose of judicial review, the record of the public hearing shall consist of a transcript of the oral testimony, exhibits admitted into evidence, all notices, pleadings, exceptions, motions, requests and other papers filed with the Commission with the exception of briefs or arguments of law. The cost of producing such record for judicial review shall be borne by the party making the appeal. The Commission may require the deposit of reasonable security for the payment of such costs before producing such record.

(Ord. 4339, § 6, 2-7-2006)

#### **2.1.1.7 Funding**

Sec. 7 No funding, whether budgeted or by special appropriation, will occur in 2008 or after without the Common Council conducting an assessment of the activities of the Community Relations Commission and taking action to approve the continuation of the Commission.

(Ord. 4339, § 11, 2-7-2006)

#### **2.1.1.8 Definitions.**

Sec. 8 With the exception of the definitions set forth below, the definitions set forth in Indiana Code 22-9-1-3, Indiana Code 22-9-1-12.1, Indiana Code 22-9.5-2-1, Indiana Code 22-9.5-1-2 and Indiana Code 22-9-5 et al. are adopted by reference and shall apply to the interpretation of this ordinance.

- 1) COMMISSION. The Goshen Community Relations Commission
- 2) EMPLOYER. The City of Goshen, or any other political subdivision or civil subdivision located in the City of Goshen, and any person employing six (6) or more persons within the City of Goshen, except that the term "employer" does not include:
  - (A) any nonprofit corporation or association organized exclusively for fraternal or religious purposes;
  - (B) any school, educational, or charitable religious institution owned or conducted by or affiliated with a church or religious institution; or
  - (C) any exclusively social club, corporation, or association that is not organized for profit.

(Ord. 4339, § 7, 2-7-2006)

## **Article 2 Fair Housing**

### **Chapter 1 Discrimination**

#### **2.2.1.1 Discrimination in the sale or rental of housing.**

Sec. 1 The following prohibitions against discrimination in sale or rental of housing apply to all dwellings. Except as exempted by this Code article it shall be unlawful:

- 1) To refuse to sell or to rent after making a bone fide offer, refuse to negotiate for the sale or rental or, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, handicap or national origin.
- 2) 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 therewith, because of race, color, religion, sex, familial status, handicap, or national origin.
- 3) To 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 intention, preference, limitation, or discrimination based on race, color, religion, sex, familial status, handicap, or national origin or an intention to make such a preference, limitation or discrimination.
- 4) To represent to any person because of race, color, religion, sex, familial status, handicap, or national origin that the dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- 5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, sex, familial status, handicap, or national origin.
- 6) For any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction because of race, color, religion, sex, familial status, handicap, or national origin. The definition of residential real estate related transactions shall be as the definition is set forth at Indiana Code 22-9.5-5-6.

(Ord. 4340, § 2, 2-7-2006)

#### **2.2.1.2 Exemptions.**

Sec. 2 Sections 2.2.1.1, 1) and 2) above do not apply to following:

- 1) The sale or rental of a single-family house sold or rented by an owner if:
  - (A) the owner does not:
    - i) own more than three (3) single family houses at any one (1) time; or
    - ii) 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 (3) single-family houses at any one (1) time; and
  - (B) the house was sold or rented without:
    - i) the use in any manner of the sales or rental facilities or services of any real state broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or person; and
    - ii) the publication, posting, or mailing of a notice, a statement, or an advertisement that indicates any intention, preference, limitation, or discrimination based on race, color, religion, sex, familial status, handicap, or national origin.
- 2) The sale or rental of rooms or units in a dwelling containing living quarters accepted or intended to be occupied by no more than four (4) families living independently of each other if the owner maintains and occupies one (1) of the living quarters as the owner's residence.
- 3) For the purposes of 2.2.1.2 1), (A) above, a person shall be deemed to be in the business of selling or renting dwellings if he or she has, within the preceding twelve (12) months, participated as:
  - (A) principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or
  - (B) agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein, or
  - (C) the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five (5) or more families.
- 4) The exemption in 2.2.1.2 (a), 1) above applies to only one (1) 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.
- 5) 2.2.1.1 (a), 1), and 2) of this Code do not prohibit discrimination against a person because

the person has been convicted under federal law or the law of any state for the illegal manufacture or distribution of a controlled substance.

- 6) Nothing in this Code article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization, supervised or controlled by or in conjunction with a religious organization, 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 persons, unless membership in such religion is restricted on account of race, color, sex, familial status, handicap, or national origin
- 7) Nor shall anything in this Code article prohibit a private club not open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(Ord. 4340, § 3, 2-7-2006)

#### **2.2.1.3 Other prohibited discrimination.**

Sec. 3 (a) It shall be unlawful for any bank, building and loan association, or other corporation, association, firm or enterprise whose business consists in whole or In part in making commercial real estate loans to deny a loan or other financial assistance to a person for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling because of race, color, religion, sex, familial status, handicap, or national origin. Such discrimination shall include the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance.

(b) It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate broker organizations, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, familial status, handicap, or national origin.

(Ord. 4340, § 4, 2-7-2006)

#### **2.2.1.4 Discrimination based on handicap.**

Sec. 4 (a) A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap 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 handicap 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 the purpose of this Code article only, discrimination includes the following:

- 1) 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.
- 2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.
- 3) In connection with the design and construction of covered multifamily dwellings for first occupancy after January, 1993, a failure to design and construct those dwellings 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 handicapped persons;
  - (B) all the doors are designed to allow passage into and within the dwellings and are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
  - (C) all premises within the dwellings contain the following features of adaptive design;
    - i) an accessible route into and through the dwelling;
    - ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
    - iii) reinforcements in bathroom walls to allow later installations of grab bars; and

iv) usable kitchen and bathrooms so that an individual in a wheelchair can maneuver about the space.

(d) As used in 2.2.1.4 (c) above, "covered multifamily dwellings" means:

- 1) Buildings consisting of four (4) or more units if the buildings have one (1) or more elevators; and
- 2) Ground floor units in other buildings consisting of four (4) or more units.

(Ord. 4340, § 5, 2-7-2006)

#### **2.2.1.5 Administration.**

Sec. 5 (a) The authority and responsibility for administering this ordinance shall be the responsibility of the Goshen Community Relations Commission (Commission).

(b) The Commission may delegate any of these functions, duties, and powers to employees of the City or to boards of the City, including such functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this ordinance.

(c) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Code article and shall cooperate with the Commission to further such purposes.

(Ord. 4340, § 6, 2-7-2006)

#### **2.2.1.6 Enforcement.**

Sec. 6 (a) Complaints

- 1) The Commission or any person who claims to have been injured by a discriminatory housing practice or who believes that he/she will be irrevocably injured by a discriminatory housing practice that is about to occur (person aggrieved) may file a complaint.
- 2) All complaints shall be in writing and shall contain such information and be in such format as the Commission requires.
- 3) All complaints shall be under oath.
- 4) Any complaint must be filed no later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, whichever is later.
- 5) A complaint may be amended at any time.

- 6) The Commission will confirm the receipt of the complaint and give the aggrieved person notice of time limits and choice of forums.

(b) Service of Complaint

- 1) The Commission shall within twenty (20) days after the filing of the complaint or the identification of an additional respondent 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 Code article.
  - (B) provide the respondent with a copy of the complaint.

(c) Answer

- 1) A respondent shall file an answer to the complaint no later than ten (10) days after the receipt of the notice and a copy of the complaint.
- 2) The answer must be in writing, under oath and on a form prescribed by the Commission.
- 3) The answer may be amended at any time.

(d) The proceedings shall be consistent with the procedures and requirements established by Indiana Code 22-9.5-6-1 through 22-9.5-6-18 inclusive.

(e) The process shall meet all time requirements established in Indiana Code 22-9.5-6-1 through 22-9.5-6-18 inclusive.

(Ord. 4340, § 7, 2-7-2006)

**2.2.1.7 Interference, coercion, or intimidation.**

Sec. 7 It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of his/her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Code article. This Code section may be enforced by appropriate civil action

(Ord. 4340, § 8, 2-7-2006)

**2.2.1.8 Definitions.**

Sec. 8 The following terms and phrases shall apply in the interpretation and enforcement of this Code article:

- 1) DWELLING. Any building, structure, or portion thereof which is occupied as or designed or

intended for occupancy as, a residence by one (1) 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.

- 2) FAMILY. Includes a single individual.
- 3) HANDICAP. With respect to a person, includes:
  - (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 subdivision (A) above; or
  - (C) being regarded as having an impairment described in subdivision (A) above.
  - (D) 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 921 U.S.C. 802).
- 4) PERSON. Includes one or more individuals, corporations, partnerships, association, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.
- 5) TO RENT. Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises owned by the occupant.
- 6) Any definitions contained in Indiana Code 22-6.5 are incorporated into this Code article and shall be used in construing the Code article terms and provisions

(Ord. 4340, § 1, 2-7-2006)

– End of Title 2 –