

TITLE 20

MISCELLANEOUS

CHAPTER

1. PUBLIC WORKS DEPARTMENT.
2. FAIR HOUSING ORDINANCE.

CHAPTER 1

PUBLIC WORKS DEPARTMENT

SECTION

- 20-101. Establishment.
- 20-102. Function and duties.
- 20-103. Public works director.

20-101. Establishment. There is hereby established for the Town of Selmer, Tennessee, a Public Works Department effective November 28, 1994. (as added by Ord. #430, Nov. 1994)

20-102. Function and duties. The function and duties of the public works department shall be the management, supervision and conduct of all municipal services associated with the construction, maintenance and repair of municipal streets or roads or roadways; the maintenance, upkeep and general repair of all municipally owned properties; all services associated with municipal collection and disposition of garbage, trash and rubbish; and the general operation of the municipally owned water and sewer system. (as added by Ord. #430, Nov. 1994)

20-103. Public works director. A person designated as the public works director shall be the head of the department of public works to be appointed in accordance with section 21 of the Charter of the Town of Selmer, Tennessee, and by the terms of this enabling Ordinance, the Board of Mayor and Aldermen of the Town of Selmer, Tennessee, are specifically authorized to prepare and adopt a job description for the public works director. (as added by Ord. #430, Nov. 1994)

CHAPTER 2

FAIR HOUSING

SECTION

- 20-201. Policy.
- 20-202. Definitions.
- 20-203. Unlawful practice.
- 20-204. Discrimination in the sale or rental of housing.
- 20-205. Discrimination in the financing of housing.
- 20-206. Discrimination in the provisions of brokerage services.
- 20-207. Exemption.
- 20-208. Administration.
- 20-209. Education and conciliation.
- 20-210. Enforcement.
- 20-211. Investigations; subpoenas; giving of evidence.
- 20-212. Enforcement by private persons.

20-201. Policy. It is the policy of the Town of Selmer to provide, within constitutional limitations, for fair housing throughout the community. (Ord. #439, § 1, May 1995)

20-202. Definitions. (1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by 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.

(2) "Family" includes a single individual.

(3) "Person" includes 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 judiciaries.

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(5) "Discriminatory housing practice" means an act that is unlawful under sections 20-204, 20-205, or 20-206. (Ord. #439, § 2, May 1995)

20-203. Unlawful practice. Subject to the provisions of subsection 20-203(2) and section 20-207, the prohibitions against discrimination in the sale or rental of housing set forth in section 20-204 shall apply to:

(1) All dwellings except as exempted by subsection (2).

(2) Nothing in section 20-204 shall apply to:

(a) Any single-family house sold or rented by an owner:
Provided that such private individual owner does not own more than

three such single-family houses at any one time: Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented

(i) without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person and

(ii) without the publication, posting or mailing, after notice of any advertisement or written notice in violation of section 20-204(3) of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(b) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(3) For the purposes of subsection (2), persons shall be deemed to be in the business of selling or renting dwellings if:

(a) they have, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(b) they have, within the preceding twelve months, participated as agent, other than in the sale of his or her own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(c) they are the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families. (Ord. #439, § 3, May 1995)

20-204. Discrimination in the sale or rental of housing. As made applicable by section 20-203 and except as exempted by sections 20-203(2) and 20-207, it shall be unlawful:

(1) To 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, religion, sex, national origin, familial status or handicap.

(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, national origin, familial status or handicap.

(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 preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status or handicap, or an intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status or handicap that any 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 the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, familial status or handicap.

(6) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by that person if such modifications are necessary to afford that person full enjoyment of the premises.

(7) To refuse to make reasonable accommodations in rules, policies, practices, or service, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (Ord. #439, § 4, May 1995)

20-205. 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 in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against them in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status or handicap of such person or of any person associated with them in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or

dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in the section shall impair the scope or effectiveness of the exception contained in section 20-203(2). (Ord. #439, § 5, May 1995)

20-206. Discrimination in the provision of brokerage services. 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 them in the terms of conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial status or handicap. (Ord. #439, § 6, May 1995)

20-207. Exemption. 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 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, national origin, familial status or handicap. Nor shall anything in this chapter 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 purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. #439, § 7, May 1995)

20-208. Administration. (1) The authority and responsibility for administering this act shall be in the Mayor of Selmer.

(2) The mayor may delegate any of these functions, duties, and powers to employees of the community or to boards of such employees, including 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 chapter. The mayor shall by rule prescribe such rights of appeal from the decisions of his or her hearing examiners to other hearing examiners or to other officers in the community, to boards of officers or to themselves, as shall be appropriate and in accordance with law.

(3) 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 chapter and shall cooperate with the mayor to further such purposes. (Ord. #439, § 8, May 1995)

20-209. Education and conciliation. Immediately after the enactment of this chapter, the mayor shall commence such educational and conciliatory

activities as will further the purposes of this chapter. They shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advise to work out programs of voluntary compliance and of enforcement. (Ord. #439, § 9, May 1995)

20-210. Enforcement. (1) Any persons who claim to have been injured by a discriminatory housing practice or who believe that they will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor or Tennessee Human Rights Commission. Complaints shall be in writing and shall contain such information and be in such form as the mayor or Tennessee Human Rights Commission requires. Upon receipt of such a complaint, the mayor or Tennessee Human Rights Commission shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (3), the mayor or Tennessee Human Rights Commission shall investigate the complaint and give notice in writing to the person aggrieved whether they intend to resolve it. If the mayor or Tennessee Human Rights Commission decides to resolve the complaints, they shall proceed to try to eliminate or correct the alleged discriminatory housing practice by information methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the mayor who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

(2) A complaint under subsection (1) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against them and with the leave of the mayor or Tennessee Human Rights Commission, which shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

(3) If within thirty days after a complaint is filed with the mayor or Tennessee Human Rights Commission, the mayor or Tennessee Human Rights Commission has been unable to obtain voluntary compliance with this section, the person aggrieved may, within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The mayor or Tennessee Human Rights Commission will assist in this filing.

(4) If the mayor or Tennessee Human Rights Commission has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complaint.

(6) Whenever an action filed by an individual shall come to trial, the mayor or Tennessee Human Rights Commission shall immediately terminate all efforts to obtain voluntary compliance. (Ord. #439, § 10, May 1995)

20-211. Investigations; subpoenas; giving of evidence. (1) In conducting an investigation, the mayor or Tennessee Human Rights Commission shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the mayor or Tennessee Human Rights Commission first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor or Tennessee Human Rights Commission may issue subpoenas to compel his or her access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court of the district in which the investigation is taking place. The mayor or Tennessee Human Rights Commission may administer oaths.

(2) Upon written application to the mayor or Tennessee Human Rights Commission, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the mayor or Tennessee Human Rights Commission to the same extent and subject to the same limitations as subpoenas issued by the mayor or Tennessee Human Rights Commission himself or herself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his or her request.

(3) Witnesses summoned by subpoena of the mayor or Tennessee Human Rights Commission shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to the witness summoned by a subpoena issued at the request of a respondent shall be paid by them.

(4) Within five days after service of a subpoena upon any person, such person may petition the mayor or Tennessee Human Rights Commission to revoke or modify the subpoena. The mayor or Tennessee Human Rights Commission shall grant the petition if they find that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy or refusal to obey a subpoena, the mayor or Tennessee Human Rights Commission or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his or her power to do so, in obedience to the subpoena or lawful order of the mayor or Tennessee Human Rights Commission shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the mayor, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the mayor or Tennessee Human Rights Commission pursuant to his or her subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(7) The town or Tennessee Human Rights Commission attorney shall conduct all litigation in which the mayor or Tennessee Human Rights Commission participates as a party or as amicus pursuant to this chapter. (Ord. #439, § 11, May 1995)

20-212. Enforcement by private persons. (1) The rights granted by sections 20-203, 20-204, 20-205, and 20-206 may be enforced by civil actions in state or local courts or general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought to this section or section 20-210(4) from time to time before bringing it to trial or renting dwellings; or

(2) any persons because they are or have been, or in order to intimidate such person or any other person or any class or persons from:

(a) participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 15(a); or

(b) affording another person or class of persons opportunity or protection so to participate, or

(3) any citizens because they are or have been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 15 (a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and, if bodily injury results, shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and, if death results, shall be subject to imprisonment for any term of years or for life. (Ord. #439, § 12, May 1995)