

Resolution

El Paso County, Texas

A RESOLUTION OF THE COMMISSIONERS COURT OF EL PASO COUNTY, TEXAS, DESIGNATING THE MONTH OF APRIL 2010, AS FAIR HOUSING MONTH IN EL PASO COUNTY

WHEREAS: Title VIII of the Civil Rights Act of 1968, as amended, prohibiting discrimination in housing and declares it a national policy to Provide, within constitutional limits, for fair housing in the United States; and

WHEREAS: The principle of Fair Housing is not only national law and national policy, but a fundamental human concept and entitlement for all Americans; and

WHEREAS: The forty-Second anniversary of the National Fair Housing Law, during the month of April, provides an opportunity for all Americans to recognize that complete success in the goal of equal housing opportunity can only be accomplished with the help and cooperation of all Americans

NOW, THEREFORE, BE IT RESOLVED BY COMMISSIONERS COURT OF EL PASO COUNTY, TEXAS THAT:

1. **April 2010** is hereby proclaimed and designated as "Fair Housing Month" in the County of El Paso; and,
2. All the citizens of this locality are urged to become aware of and support the Fair Housing law

BE IT FURTHER RESOLVED that a fair housing announcement be published in a local newspaper as further evidence of the County's commitment and support of fair housing activities in the County of El Paso

Passed and adopted, this 12th day of April, 2010.

Commissioner Anna Perez, Pct. 1

Commissioner Veronica Escobar, Pct. 2

Commissioner Willie Gandara, Pct. 3

Commissioner Daniel R. Haggerty, Pct. 4

Anthony Cobos, County Judge

CHAPTER 10

CIVIL RIGHTS REQUIREMENTS

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CHAPTER 10

CIVIL RIGHTS REQUIREMENTS

10.0 Introduction

All grantees of Texas Community Development Block Grant funds are required to comply with the Civil Rights requirements of Title I of the Housing and Community Development Act and the Fair Housing Law. Grantees must demonstrate compliance with the following requirements contained in the Housing and Community Development Act.

- Affirmative steps to promote fair and equal access to housing must be taken, regardless of the type of grant.
- Equal opportunities must be afforded to all persons.
- No person shall be excluded or denied program benefits on the basis of race, color, religion, sex, national origin, age or disability.
- Minority and female-owned businesses must be informed of grant funded contracts. Affirmative steps must be taken to assure this.
- To the greatest extent feasible, Section 3 resident and business concerns should be given preference in employment, training, and contracting.

It is not difficult to comply with Fair Housing/Equal Opportunity requirements. Grant Recipients should establish a good recordkeeping system and start work on Equal Opportunity/Fair Housing activities early, not at the end of the project.

The U.S. Department of Housing and Urban Development requires that no person in the United States shall on the grounds of race, color, national origin, religion, sex, familial status, and/or physical and mental handicap be excluded, denied benefits or subjected to discrimination under any program funded in whole or in part by Federal CDBG funds. As a result, there are several federal authorities and laws that have been established to protect these groups from discrimination. Grant Recipients must comply with these laws, executive orders, and regulations.

In addition, Grant Recipients are required by federal law to affirmatively further fair housing and to increase public awareness of the existence of fair housing laws, which prohibit discrimination in the sale, renting, and financing of housing.

10.1 Civil Rights Procedures

TxCDBG has established policies in order to ensure that Grant Recipients comply with federal equal opportunity and housing laws described earlier. TxCDBG also requires some additional procedures for Grant Recipients to follow related to encouraging small and minority business participation in CDBG funded contracts.

10.1.1 Equal Opportunity and Non-discrimination

Grant Recipients must take actions to ensure that no person or group is denied benefits such as employment, training, housing, and contracts generated by the local CDBG activity. As the project progresses, the Grant Recipient must:

- Monitor the extent to which protected groups are participating in and receiving benefits from the CDBG activity.

- Take necessary actions to ensure that members of the protected groups have equal access to any information, related services, job opportunities and training associated with the project. These actions are committed to in the Local Opportunity Plan discussed on the next page.
- Maintain records of final project beneficiaries by race, ethnicity, and sex and include this information in the *Project Completion Report (Form A1201)*. See **Chapter 12: Contract Closeout**.
- Exercise non-discrimination in the decision-making process for all elements of a CDBG project.

10.1.2 Inclusion of Equal Employment Opportunity (EEO) Provisions in Construction Contracts

Grant Recipients are required to include applicable equal opportunity provisions and certifications in the bid packages and contracts. These are included in the Sample Bid Package found in **Chapter 5: Procurement**. A list of guidelines for construction contractors regarding equal opportunity is included as **Form A1001**. These guidelines should be discussed with the construction contractor during the preconstruction conference.

10.1.3 Compliance with Section 3 Requirements

In accordance with Section 3 of the Housing and Community Development Act, Grant Recipients are required, as feasible, to provide training and employment opportunities to lower income residents and contract opportunities to businesses in the project area. Although Grant Recipients must comply with the State of Texas' statutory requirements on competitive bidding ("lowest and best bid"), the following steps should be taken regarding Section 3 compliance:

1. Prepare and make available to the public a written local opportunity plan. A sample is included as **Form A1002**.
2. Include the local opportunity plan in any bid packets for construction projects. As part of the response to the bid solicitation, bidders are required to certify that a Local Opportunity Plan will be submitted if they are awarded the contract. Bidders are not required to submit these plans with the bid response.
3. Require that local opportunity provisions are included in all subcontracts.

10.1.4 Participation by Small, Minority, and Women-Owned Businesses

Grant Recipients are encouraged to affirmatively take action to utilize small (SBE), minority (MBE) and women-owned businesses (WBE) whenever possible. Although Grant Recipients are not directly responsible for meeting a specific minority business participation goal, TXCDBG reports to HUD on the levels of MBE and WBE hiring under all CDBG contracts.

The following suggestions can be used to increase participation of small, minority and women owned-businesses are listed below.

- Place qualified small, minority, and women owned firms on solicitation lists. The Texas Facilities Commission (TFC) provides the Historically Underutilized Business (HUB) Directory that includes small businesses that are minority and women-owned. The directory can be obtained from online at <http://www.window.state.tx.us/procurement/cmb/cmbhub.html>. Additional information on HUB certification is available at <http://www.window.state.tx.us/procurement/prog/hub/>.

Note: Payment of bond premiums on behalf of such firms is an allowable expenditure that can be paid for with CDBG funds only out of the general administration budget category.

- Utilize the Minority Business Development Centers (MBDCs) located throughout Texas. The Minority Business Development Agency of the U.S. Department of Commerce funds MBDCs. This network can assist in achieving local and state minority business goals by providing relevant information, management assistance, technical assistance, program outreach and brokerage services to minority firms. A listing of MBDCs can be found on the internet at: http://www.mbda.gov/?section_id=10.
- Solicit bids/services from small, minority and women-owned businesses whenever they are potential sources.
- Divide project activities into smaller tasks or services to allow participation by these types of businesses, if economically feasible.
- Provide direct bonding assistance to minority business enterprises in order to promote their participation in the CDBG funded projects.
- Provide small, minority and women-owned businesses with information regarding the Small Business Administration (SBA) Surety Bond Guarantee Program. This program opens the bonding system to new, small, or financially marginal disadvantaged construction contractors who are not able to obtain bonding through their own efforts, or find it too costly in the standard market. This applies to contracts of \$1.25 million or less. Information on the program and local contact information can be found online at <http://www.sba.gov/OSG/faqs.html> or by contacting the regional office at 4300 Amon Carter Blvd. Suite 114 Fort Worth, Texas 75155 Phone: (817) 684-5500.

Throughout the contract period, all Grant Recipients are required to submit data on their rates of contracting with small, women, and minority owned businesses. MBE information is reported on the *Financial Interest Report (Form A503)*.

MBE reports should include contracts and subcontracts for engineering, administration, material, construction and any other major contracts awarded. Any contract or subcontract under \$2,000 does not have to be included in this report. When reporting subcontract amounts, the prime contract should be reduced accordingly to avoid duplication in reporting of construction contract dollars. The *Project Completion Report (Form A1200)* requires all contracts previously reported to be listed cumulatively with their final contract amounts.

MBE Definitions

Minority business enterprise is a business (corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit) which is at least 51 percent owned by one or more minority group members; or, in the case of a publicly-owned business, one in which at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals. For this purpose, minority group members are those groups of U.S. citizens found to be disadvantaged by the Small Business Administration pursuant to Section 8(d) of the Small Business Act.

Women-owned small business is defined as at least 51 percent owned by one or more women, or in the case of publicly owned businesses, at least 51 percent of the stock is owned by one or more women, and the management and daily operations of which are controlled by one or more women.

Minority group members are individuals who are members of the races: Black/African-American, Asian, American Indian/ Alaskan Native, Native Hawaiian/Pacific Islander, or Other Multi-racial; or consider themselves of Hispanic ethnicity.

Race means people with origins in a particular country, descendants, ancestry, blood, etc. For purposes of reporting MBE's, there are 10 race categories on the MBE report. See the definitions of each race explained below.

Ethnicity means ethnic background, cultural heritage. For purposes of reporting MBE's, there are only two ethnic categories: Hispanic or Not Hispanic.

Hispanic or Latino is a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race. Hispanics may be of any race. The terms Hispanic and Latino are used interchangeably.

White refers to people having origins in any of the original peoples of Europe, the Middle East, or North Africa. It includes people who indicate their race or races as "white" or wrote in entries such as Irish, German, Italian, Lebanese, Near Easterner, Arab, or Polish. This is the only race category that is not minority.

Black or African American refers to people having origins in any of the Black racial groups of Africa. It includes people who indicated their race or races as "Black, African Am., or Negro," or wrote in entries such as African American, Afro American, Nigerian, or Haitian.

American Indian and Alaska Native refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment. It includes people who indicated their race or races by marking this category or writing in their principal or enrolled tribe, such as Rosebud Sioux, Chippewa, or Navajo.

Asian refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent. It includes people who indicated their race or races as Asian Indian, Chinese, Filipino, Korean, Japanese, Vietnamese, or Other Asian, or wrote in entries such as Burmese, Hmong, Pakistani, or Thai.

Native Hawaiian and Other Pacific Islander refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. It includes people who indicated their race or races as Native Hawaiian, Guamanian, or Chamorro, Samoan, or Other Pacific Islander, or wrote in entries such as Tahitian, Mariana Islander, or Chuukese.

Some Other Race was included in Census 2000 for respondents who were unable to identify with the five OMB race categories. Respondents who provided write-in entries such as Moroccan, South African, Belizean, or a Hispanic origin (for example, Mexican, Puerto Rican, or Cuban) are included in the Some Other Race category.

10.2.5 Excessive Force Policy

When Grant Recipients sign their contracts they certify that they will pass and enforce the following policies:

- A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and/or
- A policy of enforcing applicable State and local laws against physically barring entrance to or exit from, a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction. For a sample excessive force policy, see **Form A1003**.

10.2.6 Section 504 Requirements

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in federally assisted programs on the basis of handicap. Section 504 imposes requirements to ensure that "qualified individuals with handicaps" have access to programs and activities that receive federal funds. Grant Recipients must adhere to the following procedures.

Communication

Grant Recipients should furnish appropriate auxiliary aids where necessary to allow an individual with handicaps an equal opportunity to participate in all CDBG program activities. Grant Recipients should implement procedures that allow individuals with handicaps to obtain information concerning the existence and location of accessible services, activities and facilities. Such procedures must ensure, to the maximum extent possible, that individuals with handicaps receive the benefits and services of the program or activity receiving CDBG assistance. Examples of auxiliary aids include telecommunication devices for the deaf (TDD), the Texas Relay System (where a TDD is not feasible), audio visual presentations, interpreters, large-lettered notices, and posting notices at a level readable by individuals in wheelchairs.

Using the Texas Relay System

For telephone communications between hearing persons and TDD users, call these numbers for 24-hour service:

If you have a TDD: 1-800-735-2989

If you do not have a TDD: 1-800-735-2988

Designation of Responsible Employee

Any Grant Recipient that employs fifteen or more persons must designate at least one person to coordinate its Section 504 responsibilities. This designation must be kept on file at the offices of the Grant Recipient. Even if a Grant Recipient uses a consultant to administer its program, it is highly recommended that a local staff person be the responsible designee. See **Form A1008** for a copy of the form.

Adoption of Grievance Procedures

Any Grant Recipient that employs 15 or more employees must adopt grievance procedures that incorporate due process standards and allow for quick and prompt resolution of complaints alleging any action prohibited by Section 504. Grievance procedures are not required to cover either applicants for employment or applicants for housing. See **Form A1004** for sample grievance procedures.

Notices

Any Grant Recipient that employs 15 or more persons must notify all participants, applicants and employees, unions, or professional organizations holding collective bargaining or professional agreements with the Grant Recipient that they do not discriminate on the basis of handicap in violation of Section 504. See sample notice in **Form A1005**.

Any such notice must identify the individual designated to coordinate its Section 504 compliance and must state, where appropriate, that the Grant Recipient does not discriminate in admission or access to, or treatment or employment in, its federally assisted programs. Grant Recipients are required to publish this notice in a newspaper of general circulation in their community and have evidence of this publication available for monitoring review (i.e., full-page advertisement or tear sheet with publisher's affidavit).

The notification process can include the posting of notices, publication of notices, and inclusion in other written materials. The notification process must ensure that all individuals, including those with visual and hearing impairments, are aware of the non-discrimination pledge.

Any recruitment or informational material published by a recipient must contain a statement regarding the Grant Recipient's pledge not to discriminate on the basis of handicap in violation of 24 CFR Part 8.

Self-Evaluation

During the contract period, all Grant Recipients who are required to comply with Section 504 must complete a self-evaluation of their Section 504 compliance and keep it on file for monitoring purposes. Grant Recipients that have completed a self-evaluation for a previous CDBG contract may use their previous self-evaluation forms on file to meet this requirement. During the self-evaluation process, the Grant Recipient must consult with individuals with handicaps or organizations representing them. The self-evaluation should include an examination of policies and practices relative to the 504 regulations. Any policies and practices that do not meet the 504 requirements must be modified, and corrective action taken to remedy any discrimination found. A sample Section 504 Self-Evaluation Review Form is included as **Form A1006**.

Handicapped Accessible Facilities

For all new public building construction, or rehabilitation in which building construction is expected to exceed \$50,000, Contractors are required to submit plans and specifications to the Texas Department of Licensing and Regulation for review and approval. The Texas Department of Licensing and Regulation is responsible for ensuring that all plans and specifications meet accessibility requirements. The TDLR clearance requirement is included in the Special Conditions of all CDBG contracts that include Public Facilities.

**Contact Information for
The Texas Department of Licensing and Regulation,
Architectural Barriers Section**

Address: Post Office Box 12157, Austin, Texas 78711

Phone: (800) 803-9202 or (512) 463-3211

Fax: (512) 475-2886

TDD: (877) 278-0999 (toll free),
(800) 735-2989 (RelayTexas – TDD),
(800) 735-2988 (RelayTexas-Voice)

Employment

Grant Recipients should not use any practices that unreasonably limit employment opportunities for individuals with handicaps. Grant Recipients must also reasonably accommodate the known needs of handicapped employees and applicants. Examples include retrofitting workstations to accommodate wheelchairs, and providing special computers for deaf and sight challenged workers.

10.2.7 Furthering Fair Housing

In order to comply with the Federal Fair Housing regulations, Grant Recipients must conduct at least one activity during the contract period to affirmatively further fair housing. The Fair Housing Act provides for the protection of the following Federally protected classes:

- Race and color;
- Religion;
- Sex;
- Handicap (Disability);
- National origin; and
- Familial status.

NOTE: National Fair Housing Month is April of each year. However, Grant Recipients may designate any month as Fair Housing Month at the local level. Designating April as "Fair Housing Month" by proclamation must be accompanied by sponsoring another activity such as the ones listed below to support fair housing. A sample fair housing proclamation is provided as **Form A1007**.

Grant Recipients sign certifications in the CDBG contract agreeing to several federal requirements. These certifications include that it will administer the program in conformity with the Civil Rights Act, the Fair Housing Act, and that it will affirmatively further fair housing, as specified by TxCDBG. Grant Recipients must conduct one or more acceptable fair housing activities during the contract period. The CDBG encourages the completion of these activities within the first ninety days of the contract commencement date. A contract cannot be administratively closed until the fair housing activity has been conducted and approved.

Fair Housing Activities Resource

HUD's Fair Housing Website at <http://www.hud.gov/groups/fairhousing.cfm> contains a wealth of information and tools for Grant Recipients to use in conducting fair housing activities.

Resources on the website include:

- A fair housing planning guide
- Fair Housing Brochures and logos
- Fair Housing Best Practices
- Contact information for fair housing advocacy organizations
- Accessibility guidelines for housing units

TxCDBG recognizes that in order to conduct a fair housing activity the Grant Recipient will incur costs. The Grant Recipient may elect to pay for fair housing activities and count the expenses toward the local match requirement, or submit a reimbursement request for eligible and reasonable costs to be paid by the CDBG grant under the General Administration line item.

As with Section 504 requirements, any Grant Recipient that employs fifteen or more persons must designate at least one person to coordinate its Fair Housing responsibilities. A designation form, included as **Form A1008**, must be signed by the local authority and kept on file. Even if a Grant Recipient uses a consultant to administer its program, it is highly recommended that a local staff person be the responsible designee. It is recommended that the same person who is designated the Section 504 Officer also be designated the Fair Housing Officer.

Suggested Ideas for Meeting the Fair Housing Activities Requirement

- Conduct a community-wide housing analysis to determine impediments to fair housing and implement actions to eliminate these impediments.
- If the Grant Recipient is a city, pass a fair housing ordinance. It is important that the ordinance include a penalty clause. Also, publicize the existence of such an ordinance (e.g., newspaper advertisement, or fliers enclosed in utility bills). A sample fair housing ordinance is included as **Form A1010**.
- If the Grant Recipient is a county, adopt written fair housing policies and procedures that are equivalent to a fair housing ordinance and publicize the existence of the policies/procedures (e.g., newspaper advertisement). A sample fair housing policy may be obtained from TxCDBG.
- Sponsor or fund fair housing counseling/referral services for owners and renters.
- Have a written local complaint and monitoring process and notify the public of its existence through newspaper advertisements, or through notices in utility statements.
- Promote housing opportunities outside historically minority and/or low and moderate-income neighborhoods.
- Designate April as "Fair Housing Month" by proclamation along with another sponsoring activity. See **Form A1007** for a sample proclamation.
- Utilize local businesses and banking institutions to promote fair housing by displaying fair housing posters.
- Announce the Grant Recipient's support of fair housing by means of newspaper advertisements, marquis displays, or public service announcements. See **Form A1009** for a sample public service announcement.
- Conduct free training workshops on fair housing laws to homebuyers, rental property owners, and tenant organizations.
- Sponsor a poster contest or essay writing contest at local schools to educate and promote fair housing.
- Review local zoning laws and procedures to determine whether they contribute to, or detract from, fair housing choice.
- Find ways to inform builders and architects as early as possible in the project design phase, but certainly no later than the issuance of a building permit, of the need to comply with the accessibility requirements of the Fair Housing Act.

10.2 Monitoring and Recordkeeping

In monitoring Grant Recipients for Equal Opportunity and Fair Housing compliance, TxCDBG Staff will review at least the following four major areas:

1. The beneficiaries of each TxCDBG funded contract.
2. Documentation of completed fair housing activities. Grant Recipients should maintain the following files and have available for review:
 - Beneficiary data by race, ethnicity and gender;
 - Any and all handbooks, policies and procedures manuals, and resolutions or ordinances regarding employment;
 - Any advertisement for employment and documentation regarding the subsequent applicants and individuals hired. Advertisements should contain the language "equal employment opportunity employer" (or similar);
 - An Excessive Force Policy (**Form A1003**);
 - Contractor Certification of Compliance with Section 3 or equivalent;
 - Written Section 3 Plan for Grant Recipient and all other parties under contract engineering firms and administration consultant as well as construction contractors (**Form A1002**);
 - Correspondence concerning Contractor Equal Opportunity compliance;
 - Copies of Financial Interest Reports (**Form A503**) with MBE information;
 - Newspaper advertisements of the Notice on Section 504 Compliance Requirements;

- *Section 504 Self-Evaluation Review (Form A1006)*; and
 - All records related to fair housing, including monetary expenditures and specific descriptions of the fair housing activities performed.
 - Complaints, if any, and actions taken;
3. The city/county's personnel policies;
 4. The actual personnel practices that are being followed or implemented locally. This includes hiring, advertising for vacancies, employment, promotions, transfers, demotions, and dismissals, as well as a review of any past cases alleging discrimination against the Grant Recipient.

In the event that there has been a determination of discrimination against a Grant Recipient, the Grant Recipient must develop a plan that identifies the effects of past discrimination and specifies actions to overcome the identified effects. A determination of discrimination can be a result of:

- A compliance review conducted by the Department of Housing and Urban Development (HUD) or by TXCDBG.
- A discrimination complaint investigation carried out by the HUD Regional Fair Housing and Equal Opportunity Office (FHEO); or
- An employment discrimination complaint investigation conducted by the Equal Employment Opportunity Commission.

TxCDBG encourages the Grant Recipient to take affirmative action to address self-identified instances of possible discrimination that is indicative of past discrimination. For example, if Grant Recipient employment is not representative of the general population of the jurisdiction, Grant Recipients are encouraged to design a program to affirmatively increase employment, training, and promotion opportunities for members of the affected groups.

NOTE: Complaints of employment discrimination should be referred to the Texas Workforce Commission's Civil Rights Division.

CONTACT INFORMATION

**Texas Workforce Commission
Civil Rights Division**

101 East 15th Street, Room 144-T

Austin, Texas 78778-0001

Toll Free Phone: 1-888-452-4778

Website: <http://www.texasworkforce.org/>

**Equal Employment Opportunity
Commission**

207 S. Houston Street, 3rd Floor

Dallas, TX 75202-4726

Phone: 1-800-669-4000

Website: <http://www.eeoc.gov/>

10.3 Applicable Federal Laws

The following list of federal laws and executive orders apply to all CDBG-funded contracts. Copies of these laws and their implementing regulations can be found online at <http://www.hudclips.org>.

10.3.1 Equal Opportunity

Title VI of the Civil Rights Act of 1964, as Amended (42 U.S.C. 2000d).

This Act states that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, or national origin. *Regulation citation: 24 CFR Part 1.*

Title VIII of The Civil Rights Act Of 1968, as Amended.

This Act prohibits discrimination in the sale or rental of units in the private housing market against any person on the basis of race, color, religion, sex, national origin, familial status or handicap. *Regulation citation: 24 CFR Parts: 105,108,109,110 and 115; Part 200 subpart M.*

Section 109 of the Housing And Urban Development Act of 1974, as Amended.

This Act requires that no person be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity funded under the Community Development Block Grant Program (CDBG) on the basis of race, color, age, disability, religion, national origin or sex. *Regulation citation: 24 CFR 570.602.*

Age Discrimination Act of 1975, as Amended.

This Act states that programs receiving federal assistance may not discriminate on the basis of age, unless an age distinction is necessary to accomplish the objective of the program. *Regulation citation: 45 CFR Part 91.*

Section 504 of the Rehabilitation Act of 1973, as Amended.

This Act states that no otherwise qualified individual may be excluded, solely because of his/her handicap, from participation in, the benefits of, or subject to discrimination under any program or activity receiving federal financial assistance. *Regulation citation: 24 CFR Part 8.*

Section 104 of the Housing and Community Development Act of 1974, as Amended.

10.3.2 Handicapped Accessibility

Section 504 of the Rehabilitation Act of 1973, as Amended.

This Act states that no otherwise qualified individual may be excluded, solely because of his/her handicap, from participation in, the benefits of, or subject to discrimination under any program or activity receiving federal financial assistance. *Regulation citation: 24 CFR Part 8.*

Architectural Barriers Act of 1968, as Amended (42 U.S.C. 4151-4157).

This Act requires that certain federally funded buildings or facilities be designed, constructed or altered to ensure accessibility to, and use by, physically handicapped persons. Buildings or facilities allocated or reallocated CDBG funds after December 11, 1995, that meet the definition of "residential structure" (as defined in 24 CFR 40.2) or the definition of "building" (as defined in 41 CFR 101-19.602(a)) are subject to the Architectural Barriers Act and must comply with the Uniform Federal Accessibility Standards. *Regulation citation: Appendix A to 24 CFR Part 40 for "residential structures" and Appendix A to 41 CFR Part 101-19 for "general buildings".*

Americans with Disabilities Act (ADA).

This Act provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. The ADA also states that discrimination includes the failure to design and construct facilities (built for first occupancy after January 26, 1993) that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable and able to be carried out without much difficulty or expense. *Regulation citation: 42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225.*

10.3.3 Employment and Contracting

Equal Employment Opportunity, Executive Order 11246, as Amended.

This Executive Order prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin. Provisions to effectuate this prohibition must be included in all construction contracts exceeding \$10,000. *Regulation citation: 41 CFR Part 60.*

Section 3 of the Housing and Urban Development Act of 1968, as Amended.

This Section provides for training and employment opportunities, to the extent possible, to lower-income residents of the project area and to provide contracts associated with CDBG funded projects to businesses located in the project area or to businesses owned, in substantial part, by residents of the project area. *Regulation citation: 24 CFR Part 135.*

Section 109 of the Housing And Urban Development Act of 1974, as Amended.

This Act requires that no person be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity funded under the Community Development Block Grant Program (CDBG) on the basis of race, color, age, disability, religion, national origin or sex. *Regulation citation: 24 CFR 570.602.*

Section 504 of the Rehabilitation Act of 1973, as Amended.

This Act states that no otherwise qualified individual may be excluded, solely because of his/her handicap, from participation in, the benefits of, or subject to discrimination under any program or activity receiving federal financial assistance. *Regulation citation: 24 CFR Part 8.*

10.3.4 Excessive Force

24 CFR Part 91, Section 225 (b) 5.

The Consolidated Plan for Community Planning and Development Programs require that in order for a local government to receive CDBG funds, it must certify that it has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations. In addition, and in the case where there is no local police department, the local government also must certify that it has adopted and is enforcing a policy against physically barring entrance to or exit from, a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.

10.3.5 Fair Housing

The Fair Housing Act (42 U.S.C. 3601-3620).

This Act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. Furthermore, section 104(b)(2) of the Act requires that each grantee certify that it is affirmatively furthering fair housing. *Regulation citation: 24 CFR Part 100-115.*

Equal Opportunity in Housing (Executive Order 11063, as Amended by Executive Order 12259).

This Act prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with federal funds. Additionally, it provides the Secretary of HUD with the leadership role in the administration of all federal programs and activities relating to housing and urban development in order to further fair housing throughout the United States. *Regulation Citation: 24 CFR Part 107.*

Section 104 of the Housing and Community Development Act of 1974, as Amended.

10.3.6 Displacement / Relocation

Title VI of the Civil Rights Act of 1964, as Amended (42 U.S.C. 2000d).

This Act states that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, or national origin. *Regulation citation: 24 CFR Part 1.*

Section 109 of the Housing And Urban Development Act of 1974, as Amended.

This Act requires that no person be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity funded under the Community Development Block Grant Program (CDBG) on the basis of race, color, age, disability, religion, national origin or sex. *Regulation citation: 24 CFR 570.602.*

Title VIII of The Civil Rights Act Of 1968, as Amended.

This Act prohibits discrimination in the sale or rental of units in the private housing market against any person on the basis of race, color, religion, sex, national origin, familial status or handicap. *Regulation citation: 24 CFR Parts: 105,108,109,110 and 115; Part 200 subpart M.*

Section 104 of the Housing and Community Development Act of 1974, as Amended.

Equal Opportunity Guidelines for Construction Contractors

Note: To be handed out at the preconstruction conference (optional)

1. **What are the responsibilities of the offeror or bidder to insure equal employment opportunity?**
The offeror or bidder must comply with the "Equal Opportunity Clause" and the "Standard Federal Equal Opportunity Construction Contract Specifications."
2. **Are construction contractors required to insure a comfortable working environment for all employees?**
Yes, it is the construction contractor's responsibility to provide an environment free of harassment, intimidation, and coercion to all employees and to notify all foremen and supervisors to carry out this obligation, with specific attention to minority or female individuals.
3. **To alleviate developing separate facilities for men and women on all sites, can a construction contractor place all women employees on one site?**
No, two or more women should be assigned to each site when possible.
4. **Are construction contractors required to make special outreach efforts to minority and female recruitment sources?**
Yes, construction contractors must establish a current list of minority and female recruitment sources. Notification of employment opportunities, including the availability of on-the-job training and apprenticeship programs, should be given to these sources. The efforts of the construction contractors should be kept in file.
5. **Should records be maintained on the number of minority and females applying for positions with construction contractors?**
Yes, records must be maintained to include a current list of names, addresses and telephone numbers of all minority and female applicants. The documentation should also include the results of the applications submitted.
6. **What happens if a woman or minority is sent to the union by the Contractor and is not referred back to the Contractor for employment?**
If the unions impede the construction contractor's responsibility to provide equal employment opportunity, a written notice should be submitted to TXCDBG.
7. **What efforts are made by construction contractors to create entry-level positions for women and minorities?**
Construction contractors are required to develop on-the-job training programs, or participate in training programs, especially those funded by the Department of Labor, to create positions for women and minorities and to meet employment needs.
8. **Are any efforts made by the Contractor to publicize their Equal Employment Opportunity (EEO) policy?**
Yes, the construction contractor is responsible for notifying unions and sources of training programs of their equal employment opportunity policy. Unions should be requested to cooperate in the effort of equal opportunity. The policy should be included in any appropriate manuals, or collective bargaining agreements. The construction contractor is encouraged to publicize the equal employment opportunity policy in the company newspaper and annual report. The Contractor is also responsible to include the EEO policy in all media advertisement.
9. **Are any in-service training programs provided for staff to update the EEO policy?**
At least annually a review of the EEO policy and the affirmative action obligations are required of all personnel employees of a decision-making status. A record of the meeting including date, time,

location, persons present, subject matter discussed, and disposition of the subject matter should be maintained.

10. What recruitment efforts are made for minorities and women?

The construction contractor must notify, both orally and in writing, minority and female recruitment sources one month prior to the date of acceptance for apprenticeship or other training programs.

11. Are any measures taken to encourage promotions for minorities and women?

Yes, an annual evaluation should be conducted for all minority and female personnel to encourage these employees to seek higher positions.

12. What efforts are taken to insure that personnel policies are in accordance with the EEO policy?

Personnel policies in regard to job practices, work assignments, etc. should be continually monitored to insure that the EEO policy is carried out.

13. Can women be excluded from utilizing any facilities available to men?

No, all facilities and company activities are non-segregated except for bathrooms or changing facilities to insure privacy.

14. What efforts are made to utilize minority and female contractors and suppliers?

None, however records are kept of all offers to minority and female construction contractors.

15. If a construction contractor participates in a business related association that does not comply with affirmative action standards, does that show his/her failure to comply?

No, the construction contractor is responsible for its own compliance.

16. Will a construction contractor be in violation of EEO policy and affirmative action if he sets up one set of goals to include minorities and women?

Yes. There is a separate goal for minorities and a separate single goal for women. The construction contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women both minority and non-minority.

17. Can a construction contractor hire a subcontractor who has been debarred from government contracts pursuant to EEO?

No. The construction contractor must suspend, terminate or cancel its contract with any Subcontractor who is in violation of the EEO policy.

18. What effort has been taken by the construction contractor to monitor all employment to insure the company EEO policy is being carried out?

The construction contractor must designate a responsible individual to keep accurate records of all employees that includes specific information required by the government.

Sample Local Opportunity Plan

The (name of Grant Recipient) agrees to implement the following specific affirmative action steps to increase the utilization of business concerns located within its boundaries.

- A. Identify eligible business concerns for TxCDBG assisted contracts through: the Chamber of Commerce, the Urban League, local advertising media including public signage; project area committees, citizen advisory boards; lists available through the local HUD program official; regional planning agencies, and all other appropriate referral sources.
- B. Maintain a list of eligible business concerns for utilization in TxCDBG funded procurements, to insure that all appropriate project area business concerns are notified of pending contractual opportunities, and to make available this list for general city/county procurement needs.
- C. Require all bidders on contracts to submit a written Local Opportunity Plan including utilization goals and the specific steps planned to accomplish these goals.
- D. Maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- E. Appoint or recruit an executive official of the city/county as Equal Opportunity Officer to coordinate the implementation of this plan.

As officers and representatives of, we the undersigned have read and fully agree to this plan, and become a party to the full implementation of this program.

Signature

Title

Date

Signature

Title

Date

Sample Excessive Force Policy**Resolution No. _____
Excessive Force Resolution**

A resolution establishing rules and regulations regarding the use of excessive force during nonviolent civil rights demonstrations, including physically barring entrance to a facility or location which is the subject of such demonstrations, and providing penalties for violations thereof: In the following city of _____ County of _____, State of Texas, as follows:

ARTICLE I

Section 1: It is the policy of the _____ to prohibit the use of excessive force by the law enforcement agencies within its jurisdiction against any individual engaged in non-violent civil rights demonstrations. The city/county also prohibits the physical barring of any entrance to, or exit from, such a facility within its jurisdiction.

ARTICLE II

Section 1 It is the policy of the city/county to enforce this policy to the full extent allowed by law.

ARTICLE III

Passed and adopted by the City Council/Commissioners' Court of _____, State of Texas, on the _____ day of _____, 20__.

Mayor/Judge

Attest:

Section 504 Grievance Procedure

The City/County of _____ has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Housing and Urban Development regulations (24 CFR Subpart A Sec. 8.4(a) implementing Section 504 of the Rehabilitation Act of 1973 as amended (29 USC 794). Section 504 states, in part that "No otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from the participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance..."

Complaints should be addressed to: **[insert 504 coordinator's name, title, address and work phone]**, who has been designated to coordinate Section 504 compliance efforts.

A complaint should be filed in writing or verbally, contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.

A complaint should be filed within ten (10) working days after the complainant becomes aware of the alleged violation. (Processing of allegations of discrimination occurring before this grievance procedure was in place will be considered on a case-by-case basis).

An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by **[name of 504 coordinator]**. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

A written determination as to the validity of the complaint and description of resolution, if any, shall be issued by **[504 coordinator's name]**, and a copy forwarded to the complainant no later than ten (10) working days after its filing

The Section 504 coordinator shall maintain the files and records of the City/ County of _____ relating to the complaints files.

The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within ten working days to the City/County of _____.

The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of a Section 504 complaint with the U.S. Department of Housing and Urban Development. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.

These rules shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and assure that the City/County of _____ complies with Section 504 and HUD regulations.

Sample Notices of Non-discrimination

Notice #1 (required)

Note: Grant Recipients are required to publish this notice in a newspaper of general circulation in their community.

Policy of Nondiscrimination on the Basis of Handicapped Status

The City/County of _____ does not discriminate on the basis of handicapped status in the admission or access to, or employment in, its program or activities. [504 Officer's name] has been designated to coordinate compliance with the nondiscrimination requirements contained in the Department of Housing and Urban Development's (HUD) regulations implementing Section 504 (24 CFR Part 8, dated June 2, 1988).

Notice #2 (required)

Equal Employment Opportunity Statement

The City/County of _____ does not discriminate on the basis of color, national origin, sex, religion, age and handicapped status in employment or the provision of services.

*The City of _____ has adopted complaint and grievance procedures regarding its Texas Community Development Block Grant Programs. These procedures outline the steps for a citizen to follow if s/he wishes to file a written complaint about proposed TxCDBG activities. The City will make every effort to respond fully to such complaints within ten (10) working days. Citizens may obtain a copy of these written procedures at the City Hall between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday. Citizens may also request the procedures be mailed to them by calling [504 Officer's name and title], at _____.

Notice #3 (optional)

Policy of Nondiscrimination on the Basis of Handicapped Status

The _____ does not discriminate on the basis of handicapped status in the admission or access to, or treatment or employment in, its federally assisted programs or activities.

(Name) _____

(Address) _____

	City	State	Zip
Telephone Number	() _____ - _____	Voice	
	() _____ - _____	TDD	

Section 504 Self-Evaluation Form

Grant Recipient: _____ TxCDBG Contract No: _____

Brief Description of Project: _____

1. Identify individual(s) responsible for collecting information for the Section 504 Self-Evaluation Review.

2. Identify the individual(s) with handicaps and/or organizations (representing persons with handicaps) that were consulted for the self-evaluation review. Describe how they participated in the self-evaluation review

3. Describe Section 504 nondiscrimination notification procedures (example: newspaper advertisements, utility inserts, flyers, postings at public facilities).

4. List policies that may limit participation of individuals with handicaps in Contractor programs, projects, and activities.

- 1) _____
- 2) _____
- 3) _____
- 4) _____

5. Identify and list public facilities that limit accessibility.

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____

6. Describe contractor in-house procedures for circulating information on Section 504 and procedures for staff training on Section 504.

7. Identify Section 504 contractor complaint procedures

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____

8. Describe Contractor's efforts to ensure compliance of Section 504 by third party contractors (Construction Contractors, Engineers, Administrators etc.)

9. Describe Contractor's efforts to make documents and publications available to individuals with handicaps (examples: large print, audio tape, Braille, computer disks).

10. List special information services that are available (examples: telephone listening devices, information sheet on TDD Relay Texas Service Center for the deaf, interpreters, readers, listening devices, audio visual presentations, automated electronic devices, assistive listening devices, documents in Braille etc.)

11. List emergency evacuation procedures

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____

**Sample Fair Housing Month Proclamation
Proclamation of April as Fair Housing Month**

WHEREAS Title VIII of the Civil Rights Act of 1968, as amended, prohibits discrimination in housing and declares it a national policy to provide, within constitutional limits, for fair housing in the United States; and

WHEREAS The principle of Fair Housing is not only national law and national policy, but a fundamental human concept and entitlement for all Americans; and

WHEREAS The National Fair Housing Law, during the month of April, provides an opportunity for all Americans to recognize that complete success in the goal of equal housing opportunity can only be accomplished with the help and cooperation of all Americans.

NOW, THEREFORE, WE, the City Council/Commissioner's Court of _____, do proclaim April as Fair Housing Month in the City/County of _____ and do hereby urge all the citizens of this locality to become aware of and support the Fair Housing law.

IN WITNESS WHEREOF we have affixed our signatures and seal on this the ____ day of April 20__.

Title: _____

Witness:

Title: _____



Designation Form for Section 504 and Equal Opportunity/Fair Housing Officer



City/County: _____

TxCDBG Contract # _____

Address: _____

Telephone Number: _____

I, _____, do hereby appoint _____,
(Chief Elected Official) (Name and Title)

as the Fair Housing/Equal Opportunity/Section 504 Standards Officer for the City/County of _____

The Fair Housing/Equal Opportunity/Section 504 Standards Officer shall be responsible for the oversight and compliance of fair housing and equal opportunity activities to be performed by the City/County of _____, as required by the Texas Community Development Block Grant Program Contract No. _____.

The Fair Housing/Equal Opportunity/Section 504 Standards Officer is responsible for being familiar with and adhering to all civil rights laws and regulations pertaining to the Texas Community Development Block Grant Program, including those described in the TxCDBG Implementation Manual and those listed on Exhibit D of the TxCDBG contract.

Fair Housing/Equal Opportunity/Section 504 Standards Officer: _____
(Signature)

Appointed by: _____
(Signature)

Date: _____

Sample Fair Housing Public Service Announcement
Public Service Announcement:
Fair Housing, It's the Law

To promote fair housing practices, the city/county of _____ encourages potential homeowners and renters to be aware of their rights under the National Fair Housing Law.

Title VIII of the Civil Rights Act of 1968, as amended, prohibits discrimination against any person on the basis of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of units in the housing market.

For more information on fair housing or to report possible fair housing discrimination, call the U.S. Department of Housing and Urban Development's toll-free hotline at 1-800-669-9777.

Sample Fair Housing Ordinance

DECLARATION OF POLICY

It is hereby declared to be the policy of the city to bring about through fair, orderly and lawful procedures, the opportunity of each person to obtain housing without regard to race, color, religion, sex, national origin, physical or mental handicap, or familial status.

It is further declared that such policy is established upon a recognition of the inalienable rights of each individual to obtain housing without regard to race, color, religion, sex, national origin, physical or mental handicap, or familial status and further that the denial of such rights through considerations based on these protected classes is detrimental to the health, safety and welfare of the inhabitants of the city and constitutes an unjust denial or deprivation of such inalienable rights which is within the power and the proper responsibility of government to prevent.

Definitions

As used in this ordinance the following words and phrases shall have the meanings respectively ascribed to them in this section unless the context requires otherwise:

Director means the director of the human relations department or authorized assistant.

Discriminatory housing practice means an act which is unlawful under this ordinance.

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

Family means a single individual or a group of individuals living together under one common roof.

Major life activities means functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Person means one of more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

Physical or mental handicap means any physical or mental impairment which substantially limits one or more major life activities.

Physical or mental impairment shall include:

- (1) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one of more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

- (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

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.

Senior adult means a person fifty-five (55) years of age or older.

Interpretation and Effect

This ordinance shall in no way be interpreted as creating a judicial right or remedy which is the same or substantially equivalent to the remedies provided under Title VIII of the Civil Rights Act of 1968, as amended or the Federal Equal Credit Opportunity Act (15 U.S.C. 1691). All aggrieved parties shall retain the rights granted to them to Title VIII of the Civil Rights Act of 1968, as amended and the Federal Equal Credit Opportunity Act. In construing this ordinance, it is the intent of the city council that the courts shall be guided by Federal Court Interpretations of Title VIII of the Civil Rights Act of 1968, as amended, and the Federal Equal Credit Opportunity Act, where appropriate.

Discrimination in the Sale or Rental of Housing

Except as exempted by 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, physical or mental handicap, or familial status.
- (2) To discriminate against any person in the terms, conditions, or privileges of a 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, physical or mental handicap, or familial status.
- (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 of discrimination based on race, color, religion, sex, national origin, physical or mental handicap, or familial status, 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, physical or mental handicap, or familial status, that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
- (5) 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, physical or mental handicap, or familial status.

Discrimination in Housing Financing

It shall be unlawful for any bank, building and loan association, insurance company, or other person 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 him 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, physical or mental handicap, or familial status of such person or such persons associated therewith or because of the race, color, religion, sex, national origin, physical or mental handicap, or familial status, 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 or given.

Discrimination in Providing Brokerage Service

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

Unlawful Intimidation

It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because such individual, group, or business has complied with the provisions of this ordinance or has exercised in good faith rights under this ordinance, or has enjoyed the benefits of this ordinance, or because such individual, group, or business has made a charge in good faith, testified in good faith or assisted in good faith in any manner in any investigation, or in any proceeding hereunder or has made any report to the director.

Exemptions and Exclusions

(a) Nothing in this ordinance shall apply to:

(1) Any single-family house sold or rented by an owner, provided that:

- a. Such private individual owner does not own more than three (3) single-family houses at any one time; and,
- b. If the owner does not reside in the house at the time of the 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 such sale within any twenty-four (24) month period; and,
- c. Such bona fide private individual owner does not own any interest in, nor is there owned or reserved on such person's behalf, under any express 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 time; and,
- d. 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 or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and
- e. The sale or rental is made without the publication, posting or mailing of any advertisement or written notice in violation of this ordinance; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.

(2) Rooms or 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 of such living quarters as his residence.

(b) For the purposes of subsection (a), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or,

(2) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

(c) Nothing in this ordinance shall prohibit a religious organization, association or society or a 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 dwellings which it owns or operates for other than a commercial purpose to person 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, physical or mental handicap, or familial status.

(d) Nothing in this ordinance 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 a commercial purpose, from limiting the rental or occupancy of such lodgings to its members, or from giving preference to its members.

(e) Nothing in this ordinance shall bar any person from owning and operating a housing accommodation in which 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.

(f) Nothing in this ordinance shall prohibit the sale, rental, lease or occupancy of any dwelling designed and operated exclusively for senior adults and their spouses, unless the sale, rental, lease or occupancy is further restricted on account of race, color, religion, sex, national origin, physical or mental handicap or familial status.

(g) Nothing in this ordinance shall bar a person who owns, operates or controls rental dwellings whether located on the same property or on one or more contiguous parcels of property, from reserving any grouping of dwellings for the rental or lease to tenants with a minor child or children; provided however, in the event that said reserved area is completely leased or rented, the person owning, operating or controlling said rental dwelling may not refuse to rent or lease any other available dwelling to the prospective tenant on the basis of the tenant's status as parent or any other of the protected classifications set forth in this ordinance.

Violations

No person shall violate any provision of this ordinance, or knowingly obstruct or prevent compliance with this ordinance.

ENFORCEMENT

Generally

The director of the human relations department shall have the responsibility of administering and implementing this ordinance. The director may delegate the authority to investigate and conciliate complaints to other designated city employees.

Complaints - Generally

(a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereinafter referred to as the "charging party") may file a complaint with the director. 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 director shall prepare complaint forms and furnish them without charge to any person, upon request.

(b) The director 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 subsection (a) of this section.

(c) All complaints shall be filed within one hundred eighty (180) days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the director shall provide notice of the complaint by furnishing a copy of such complaint to the person named therein (hereinafter referred to as the "respondent") who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The respondent may file an answer to the complaint within fifteen (15) days of receipt of the written complaint.

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

(e) If at any time the director shall receive or discover credible evidence and shall have probably cause to believe that any person or persons have committed a discriminatory housing practice as to which no complaint has been filed or is about to be filed, the director 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.

Investigation and Conciliation

(a) Upon the filing or referral of a complaint as herein provided, the director shall cause to be made a prompt and full investigation of the matter stated in the complaint; provided, however, that before any charge becomes accepted for investigative purposes, the director or an investigator shall have personally reviewed with the charging party the allegations contained therein and shall have determined that said charge comes within the provisions of this ordinance. In the event such review results in the determination that a particular charge does not come within the provisions of this ordinance, the charging party shall be given a clear and concise explanation of the reasons why it does not.

(b) If the director determines that there is not probably cause to believe that a particular alleged discriminatory housing practice has been committed, the director shall take no further action with respect to that alleged offense.

(c) During or after the investigation, but subsequent to the mailing of the notice of complaint, the director 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 to obtain adequate assurance of future voluntary compliance with provisions of this ordinance. Nothing said or done in the course of such informal endeavors may be made public by the director, the commission, the investigator, the conciliator, the charging party, or the respondent, or be used as evidence in a subsequent proceeding without the written consent of all persons concerned.

(d) Upon completion of an investigation where the director has made a determination that a discriminatory housing practice has in fact occurred, if the director is unable to secure from the respondent an acceptable conciliation agreement, then the human relations commission of the city must, upon a majority vote, refer the case to the city attorney for prosecution in municipal court or to other agencies as appropriate. With such recommendation of the director and the referral of the human relations commission, the director shall refer his entire file to the city attorney. The city attorney shall, after such referral, make a determination as to whether to proceed with prosecution of such complaint in municipal court.

Penalty

If a discrimination housing practice is found to have in fact occurred and the case has been referred to municipal court, the respondent shall be assessed a penalty of \$300.00 per violation.