

**ORDINANCE #67119**  
**Board Bill No. 18**  
**Committee Substitute**

An ordinance intended to eliminate, reduce and remedy discrimination in housing, employment, education, services, public accommodations, and real property transactions and uses, to provide equal opportunity enforcement, and to bring the laws of the City of St. Louis into substantial compliance with the Federal Fair Housing Act by repealing ordinance 66088 and enacting in lieu thereof an ordinance amending and restating the previous ordinance, and containing a penalty clause, a savings clause, a severability clause, a clause providing for judicial review, a clause providing for liberal interpretation of this ordinance, and an emergency clause.

**BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

**Section One. Repeal of Previous Ordinance Concerning Same Subject Matter.**

Ordinance #66088 relating to the St. Louis Civil Rights Enforcement Agency, its jurisdiction, powers and staff is hereby repealed.

**Section Two. Definition of Terms.**

As used in this ordinance, unless a different meaning clearly appears from the context in which used, the following terms and phrases shall be taken to have the meaning ascribed to them in this section, to wit:

- (1) "Academic, professional or vocational school" includes any person who trains and teaches individuals to engage in any trade, business, profession, calling or vocational pursuit.
- (2) "Act" means the federal Fair Housing Act, 42 U.S. C. 3601, *et seq.*
- (3) "Age" means an age of forty or more years but less than seventy years, except that it shall not be an unlawful employment practice for an employer to require the compulsory retirement of any person who has attained the age of sixty five and who, for the two year period immediately before retirement, is employed in a bona fide executive or high policy making position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least forty four thousand dollars.
- (4) "Agency" means the St. Louis Civil Rights Enforcement Agency.
- (5) "Aggrieved person" includes any person who:
  - (a) claims to have been injured by a discriminatory housing practice; or
  - (b) believes that such person will be injured by a discriminatory housing practice that is about to occur.
- (6) "Commission" means the St. Louis Civil Rights Enforcement Commission;
- (7) "Commissioner" means a member of the St. Louis Civil Rights Enforcement Commission.
- (8) "Complainant" shall mean a person who has filed a complaint with the Agency alleging that another person has engaged in a prohibited discriminatory practice, or a person who has joined in such a complaint after its initial filing.
- (9) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent and the Commission and/or the Commission's agent..
- (10) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.
- (11) As used in §9(C)(2)(c) of this ordinance, the term "Covered Multifamily Dwelling" means:
  - (a) buildings consisting of 4 or more units if such buildings have one or more elevators; and

- (b) ground floor units in other buildings consisting of 4 or more units.
- (12) "Director" means the Executive Director of the St. Louis Civil Rights Enforcement Agency.
- (13) "Disability" or "Handicap" means, with respect to a person:
- (a) a physical or mental impairment which substantially limits one or more of such person's major life activities;
  - (b) a record of having such impairment; or
  - (c) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined by Section 195.010 R.S.Mo.), however, a person may be considered to be disabled if that person:
    - (i) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of, and is not currently addicted to, a controlled substance or has otherwise been rehabilitated successfully and is no longer engaging in such use and is not currently addicted;
    - (ii) Is participating in a supervised rehabilitation program and is no longer engaging in illegal use of controlled substances; or
    - (iii) Is erroneously regarded as currently illegally using, or being addicted to, a controlled substance.
- (14) "Discriminatory housing practice" or "Discriminatory practice" means an act that is unlawful under section 3604, 3605, 3606, or 3617 of the Fair Housing Act, or is otherwise prohibited by the provisions of this ordinance.
- (15) "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.
- (16) "Employer" included any person who employs six or more persons exclusive of that person's parents, spouse or children.
- (17) "Employment agency" includes any person undertaking for compensation to procure opportunities to work or to procure, recruit, refer or place employees.
- (18) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with
- (a) a parent or another person having legal custody or such individual or individuals; or
  - (b) the designee of such parent or other person having such custody, with the written permission of such parent or other person;
- The protection afforded by this ordinance against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.
- (19) "Family" includes a single individual.
- (20) "Financial Institution" means bank, banking organization, mortgage company, insurance company, investment company or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of or as agent of any of these.

- (21) As used in §9(C)(3)(c) of this ordinance, the term "Housing for Older Persons" means housing:
- (a) provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development has determined is specifically designed and operated to assist elderly persons;
  - (b) intended for, and solely occupied by, persons 62 years of age or older; or
  - (c) intended and operated for occupancy by at least one person 55 years of age or older per unit:
    - (i) in which at least eighty percent of the units are occupied by at least one person 55 years of age or older; and
    - (ii) for which management has published and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
  - (d) that complies with rules issued by the Secretary for verification of occupancy, which shall:
    - (i) provide for verification by reliable surveys and affidavits; and
    - (ii) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii) above. Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.
  - (e) housing shall not fail to meet the requirements for housing for older persons by reason of:
    - (i) persons residing therein as of September 13, 1988 who do not meet the age requirements set out in subparagraphs (b) or (c) of this definition, provided that new occupants of such housing do meet said age requirements; or
    - (ii) unoccupied units, provided that such units are reserved for persons who meet the relevant age requirement of subparagraphs (b) or (c) of this definition.
- (22) "Individual" means one or more individuals.
- (23) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.
- (24) "Person" includes one or more individuals, partnerships, associations, unincorporated organizations, corporations, mutual companies, joint stock companies, legal representatives, trusts, trustees, labor organizations, fiduciaries, trustees in bankruptcy, and/or receivers.
- (25) "Places of Public Accommodation" means all places or businesses offering or holding out to the general public services or facilities for the comfort, health and safety of such general public, including, but not limited to, public places providing food, shelter, recreation and amusement.
- (26) "Prevailing party" has the same meaning as such term has in 42 U.S.C. §1988 and §802(o) of the Act.
- (27) "Real Estate Broker" or "Real Estate Salesman" means any person, whether licensed or not, who, on behalf of others, for a fee, commission, salary or other valuable consideration, or who with the intention or the expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvement thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others, a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection

with a contract whereby he undertakes to promote the sale, purchase, exchange, rental or lease of real estate through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

For the purpose of this Section, a person shall be deemed to have engaged in the activities set out above if:

- (i) the person has, within the preceding twelve (12) months, participated as a principal in three (3) or more transactions involving such activities; or
  - (ii) the person has, within the preceding twelve (12) months, participated as agent, other than in connection with the person's own personal residence, in two (2) or more transactions involving such activities; or
  - (iii) the person is the owner of any Dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.
- (28) "Realty" includes real estate, lands, buildings, structures, housing accommodations, dwellings, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal or incorporeal, or any interest in the above.
- (29) "Respondent" shall mean a person or other entity who is alleged to have engaged in a prohibited discriminatory practice in a complaint filed with the Agency, or a person or other entity who has been substituted for the originally named respondent, or a person or other entity who has been added as a party respondent, subsequent to the initial filing of the complaint, pursuant to investigation conducted by the Agency; provided, however, that substituted or added persons or entities shall be notified as required in Section 810(a) of the Fair Housing Act.
- (30) "Secretary" means the Secretary of Housing and Urban Development.
- (31) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.
- (32) "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.

**Section Three. Creation and Establishment of the Civil Rights Enforcement Commission and Civil Rights Enforcement Agency.**

- (1) There is hereby established a St. Louis Civil Rights Enforcement Agency to be composed of a staff headed by an Executive Director and an advisory and quasi judicial body known as the St. Louis Civil Rights Enforcement Commission.
- (2) The Executive Director shall be the chief executive officer of the Agency and shall be an ex officio member of the Commission. The Executive Director shall be appointed by the Mayor and shall serve at his pleasure.
- (3) It is the intent of this ordinance to grant to the St. Louis Civil Rights Enforcement Commission and St. Louis Civil Rights Enforcement Agency all of the authority to enforce the provisions of Chapter 213, R.S.Mo., which may be exercised by the Commission and Agency pursuant to §§213.020.3 and 213.135, R.S.Mo.

**Section Four. Composition of the Commission.**

The Commission shall consist of seven (7) members, one of whom shall be the Chairman of the Legislation Committee of the Board of Aldermen. The other six (6) members shall be appointed by the Mayor, with the advice and consent of the Board of Aldermen. The term of office of each member shall be for three (3) years, except that two (2) of the members first appointed shall serve for a term of one (1) year and two (2) of the members initially appointed shall serve for terms of two (2) years; thereafter, all members shall be appointed for terms of three (3) years. All members shall serve without compensation.

**Section Five. Function and Duties of the Commission.**

- (1) The Commission shall act in an advisory capacity to the Mayor, the Board of Aldermen and the Director for the purposes of furthering amicable relations among the various segments of the population, which together comprise the citizenry of the City of St. Louis; to help preserve and further the good name of St. Louis for tolerance and fair play and promote better relations among its people; to help make it possible for each citizen, regardless of race, color, religion, sex, age, disability, marital status, familial status, sexual orientation, national origin or ancestry, or legal source of income to develop talents and abilities without limitation; and to aid in permitting the community to benefit from the fullest realization of its human resources. In order to accomplish the objectives herein set out, the Commission shall advise and confer with the Mayor and other officers of the City on problems affecting human and inter group relations; make studies, surveys and investigations to provide accurate data for orderly and constructive community development, and to recommend such measures as are deemed necessary to carry out the objectives for which the commission has been created; consult with and obtain cooperation and coordinated effort on the part of all agencies, both private and public, which function in the field of human relations, schools, law enforcement agencies, welfare organizations, youth and similar groups; utilize the resources of individuals and groups toward the improvement of inter group relations; enlist all potential community forces in an effort to make more secure and to extend democratic rights, opportunities and practices; influence and encourage community support for educational programs; and where appropriate, draft, propose or support legislation designed to: (a) combat those misconceptions, prejudices and untruths which tend to set group against group; (b) reduce tensions created by ignorance and bigotry; and (c) eliminate discriminatory practices arising from prejudice.
- (2) The Commission shall review the record made in a contested case before a hearing officer, consider the recommended findings of fact, conclusions of law and order of said hearing officer and shall thereafter accept or amend the recommended findings of fact, conclusions of law and order. Such action may be taken by a panel of not less than three members of the Commission, and any order made by such panel shall become the final order of the Commission. Neither the retention of hearing officers pursuant to Section Eight hereof nor the appointment of such panel shall be construed as a delegation or contracting out of the Commission's decision-making authority to a non-governmental authority in violation of 24 C.F.R. 115.202(f). In any contested case, the final determination shall be made solely by the Commission.

**Section Six. Organization.**

The Commission shall elect its chairman from among its members and create and fill such other offices as it may determine. The term of the chairman shall be for two years. The chairman may be re elected to a second two year term. No chairman shall serve more than two consecutive two year terms. The commission shall hold at least one regular meeting every 3 months. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions and findings.

**Section Seven. Powers and Duties of the Commission.**

The commission is hereby empowered:

- (1) to recommend action to safeguard all individuals within the jurisdiction from discrimination because of race, marital status, familial status, sexual orientation, sex, color, age, religion, disability, national origin or ancestry, or legal source of income;
- (2) upon recommendation of the Director, to accept grants, gifts, or bequests, public or private, to help finance the activities of the Commission or Civil Rights Enforcement Agency and to enter into cooperative arrangements with other jurisdictions or agencies for the production and dissemination of educational materials and/or programs;
- (3) to enact by a majority vote of its members such rules and regulations as it may deem necessary for governance of the Commission and to carry out the functions assigned to it hereunder. Such rules and regulations shall be signed by the Chairman and attested to by the Director. Once so signed and attested, rules and regulations promulgated by the Commission shall be transmitted to the Missouri Commission on Human Rights for review. Upon approval by the Missouri Commission, a copy of said rules and regulations shall be filed with the Register of the City of St. Louis;

- (4) to render to the Mayor and the Board of Aldermen a full written report of all of its activities and of its recommendations on an annual basis;
- (5) to advise and consult with the Civil Service Commission and local offices controlled by state statute to effectuate the policies of this ordinance and applicable federal laws;
- (6) to appoint a panel composed of not less than three members of the Commission, or to act as the Commission as a whole, to review the record made before a hearing officer in a contested hearing, to review that hearing officer's proposed findings of fact, conclusions of law and order, and to accept or amend such proposed findings of fact, conclusions of law and order, which shall become a final order of the Commission; and
- (7) to issue such affirmative orders in contested cases as authorized by state statute.

**Section Eight. Powers and Duties of the Executive Director.**

The Executive Director is hereby empowered:

- (1) to provide for execution within the City of St. Louis of the policies embodied in this ordinance, the Federal Civil Rights Act of 1964, as amended, the Federal Fair Housing Act of 1968, as amended and Chapter 213 of the Revised Statutes of the State of Missouri;
- (2) to receive, initiate, investigate, make probable cause findings with regard to, and make recommendations concerning, violations of equal employment, fair housing and/or public accommodation provisions of Chapter 213 of the Revised Statutes of the State of Missouri, as authorized therein, and/or of ordinances, orders, or resolutions forbidding discrimination which have been adopted or enacted by the City;
- (3) issue subpoenas to compel the attendance of witnesses and the production of evidence relevant to the matter in question for investigatory and determinative purposes and to enforce such subpoena in Circuit Court;
- (4) to write, edit and produce educational materials and to arrange, sponsor, promote and/or participate in educational programs intended to reduce or eliminate bias or discrimination against persons or groups based upon the race, color, sex, disability, national origin, ancestry, familial status or size, religion or sexual orientation, or legal source of income of such person or group;
- (5) to enter into deferral or other cooperative working agreements with the United States Equal Employment Opportunity Commission, United States Department of Housing and Urban Development, Missouri Commission on Human Rights, and/or any other federal, state or local agency which is empowered to take action, enter into agreements, or make grants for the purpose of reducing or eliminating discrimination.
- (6) to refer a matter under its jurisdiction to the Missouri Commission on Human Rights for initial action or review;
- (7) should a finding of probable cause be made and the Director be unable to successfully conciliate the complaint, to issue administrative charges of violation of this ordinance;
- (8) to recommend to the Commission acceptance of grant agreements, gifts and bequests;
- (9) to hire attorneys to act as hearing officers to hold hearings on charges issued by the Director;
- (10) where a hearing is held before the Commission on a charge issued by the Director, to present evidence and testimony before the Commission relative to such charge;
- (11) to refer potential ordinance violations to the City Counselor for prosecution in municipal court;
- (12) if the Director determines at any time subsequent to filing of a complaint that prompt judicial action is necessary to effectuate the purposes of the equal employment, fair housing or public accommodation provisions of Chapter 213 of the Revised Statutes of the State of Missouri and/or of ordinances, orders or resolutions forbidding discrimination which have been adopted or enacted by the City, the Director may authorize the City Counselor

to file a civil action seeking issuance of an appropriate temporary restraining order or other injunctive relief. Upon receiving notice of such authorization, the City Counselor shall promptly file and maintain such action in the Missouri Circuit Court. The filing of such an action shall in no way affect or interfere with the initiation of a complaint or continuation of administrative proceedings thereon, pursuant to the provisions of this ordinance;

- (13) to delegate any of his powers or duties provided for by this or any other ordinance to one or more staff employees of the Agency, except that (a) all charges referred to the Commission for hearing must be signed by the Director and (b) all subpoenas issued pursuant hereto must also be signed by the Director.

**Section Nine. Prohibited Discriminatory Practices.**

- (A) Discriminatory practices, as defined and established by this section, are prohibited. Any person engaging in a prohibited discriminatory practice shall be guilty of an ordinance violation, which shall be punishable in the manner set out in Section 17 of this ordinance.

- (B) **DISCRIMINATION IN EMPLOYMENT.** It shall be a prohibited discriminatory employment practice:

- (1) For an employer to fail or refuse to hire, to discharge or otherwise to discriminate against any individual with respect to compensation or the terms, conditions or privileges of employment, because of race, color, age, religion, sex, familial status, disability, sexual orientation, national origin or ancestry.
- (2) For a labor organization to exclude or expel from membership, or otherwise to discriminate against any applicant or member, because of race, color, age, religion, sex, familial status, disability, sexual orientation, national origin or ancestry of any applicant or member;
- (3) For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against any individual because of race, color, age, religion, sex, familial status, disability, sexual orientation, national origin or ancestry of said individual;
- (4) For an employer, labor organization or employment agency to print or circulate or cause to be printed or circulated, any statement, advertisement or publication, or to make any inquiry in connection with prospective employment, which expresses directly or indirectly any preference, limitation, specification or discrimination because of race, color, age, religion, sex, familial status, sexual orientation, disability, national origin or ancestry, unless based upon a bona fide occupational qualification.
- (5) Notwithstanding paragraphs 1, 2, 3 and 4 of subsection B of this section, the age prohibition shall be limited to individuals who are at least forty (40) years of age, but less than seventy years of age.
- (6) For an academic, professional or vocational school to exclude or expel from enrollment, or otherwise to discriminate against any applicant or student, because of the race, color, religion, familial status, disability, sexual orientation, national origin or ancestry of said applicant or student.
- (7) For an academic, professional or vocational school to or circulate or cause to be printed or circulated, a statement, advertisement or publication, or to use any form of application for admission to said school, or to make any inquiry in connection with prospective enrollment in said school, which expresses directly or indirectly any preference, limitation, specification, or discrimination because of race, color, religion, sexual orientation, familial status, disability, national origin or ancestry.
- (8) It shall not be an unlawful employment practice for a school, college, university or other educational institution which is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion, or by a particular religious corporation, association, or society, if the curriculum of such school, college, university or other educational institution is substantially directed toward the propagation or teaching of a particular religion, for such school, college, university or educational institution to consider the religion of an applicant in making a hiring decision for a teaching or counseling position, a professorship, or a position involving supervision of teachers, counselors or professors.
- (9) Nothing contained in this ordinance shall be interpreted to require any employer, employment agency, labor

organization, or joint labor management committee subject to this ordinance to grant or accord preferential treatment to any individual or group because of the race, color, national origin or ancestry of such individual or group because or on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, familial status, disability, national origin or ancestry employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sexual orientation, familial status, disability, national origin or ancestry in this community, or in the available work force in this community.

(C) **DISCRIMINATION IN PROVISION OF HOUSING OR REALTY.**

- (1) Prohibited Discriminatory Housing or Realty Practices. It shall be a prohibited housing or realty practice and shall constitute a discriminatory housing practice:
- (a) For any person, including, without limitation any real estate broker, salesman or agent, or any employee thereof, to discriminate against any individual because of race, color, religion, sex, sexual orientation, familial status, legal source of income, disability, national origin or ancestry, with respect to the use, enjoyment or transfer, or prospective use, enjoyment or transfer, of any interest whatsoever in realty, or with respect to the terms, conditions, privileges or services granted or rendered in connection therewith, or with respect to the making or purchasing of loans for the purchase or maintenance of residential real estate or loans in the secondary market, or the provision of other financial assistance, or with respect to the terms, conditions, privileges or services granted or rendered in connection with any interest whatsoever in realty, or with respect to the making of loans secured by residential real estate;
  - (b) For any person, including, without limitation, any banking, money lending, credit securing or other financial institution, or any officer, agent or employee thereof, to discriminate against any individual because of race, marital status, familial status, color, religion, sex, sexual orientation, disability, national origin or ancestry, with respect to the granting or withholding of credit or financial assistance, or the extending or renewing of credit or financial assistance, or modifying of rates, terms, conditions, privileges or other provisions of credit or financial assistance, or services retained or rendered, in connection with the transfer or prospective transfer of any interest whatsoever in realty, or in connection with the construction, repair, improvement or rehabilitation of realty;
  - (c) For any real estate broker, salesman or agent, or any employee thereof, or any other person seeking financial gain thereby, directly or indirectly to induce or solicit, or attempt to induce or solicit, the transfer of any interest whatsoever in realty, by making or distributing, or causing to be made or distributed, any statement or representation concerning the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, disability, familial status, national origin or ancestry or with a particular source of lawful income;
  - (d) For any person to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, legal source of income, disability, sexual orientation, national origin or ancestry;
  - (e) For any person to discriminate against any other person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, legal source of income sexual orientation, disability, national origin, or ancestry;
  - (f) For any person 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, familial status, lawful source of income, sexual orientation, disability, national origin, or ancestry, or an intention to make any such preference, limitation, or discrimination;

- (g) For any person to represent to another person because of race, color, religion sex, familial status, lawful source of income, sexual orientation, disability, national origin, or ancestry that any dwelling is not available for inspection, sale, or rental when such dwelling is, in fact, so available;
  - (h) For any person to deny any other 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 him in the terms or conditions of such access, membership, or participation on account of race, color, religion sex, familial status, sexual orientation, disability, national origin, or ancestry.
  - (i) Notwithstanding the foregoing, a person engaged in the business of furnishing appraisals of real property may take into consideration factors other than race, color, religion, national origin, sex, sexual orientation, handicap or familial status.
- (2) **Discrimination Against Persons With Disabilities.** For purposes of this subsection, the term "discriminatory practice" includes:
- (a) discrimination against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, or in the sale or rental or otherwise making unavailable or denying a dwelling to any buyer or renter because of a handicap of:
    - (i) that person; or
    - (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
    - (iii) any person associated with that person,

provided, however, that a refusal to make available a unit for rent shall not be a discriminatory practice if such potential renter, the person with one or more disabilities, or a person on behalf of a person with disabilities seeks modifications to the rental property but the potential renter is unable or unwilling to pay the expense of such modifications or provide the agreement to restore the premises, where it is reasonable to do so, in accordance with the provisions of subparagraph 2(b) below.
  - (b) a refusal to permit, at the expense of a person with disabilities, or another person on behalf of a person with disabilities, reasonable modifications of existing premises occupied or to be occupied by such person with disabilities, if such modifications may be necessary or desirable to afford the person with disabilities full enjoyment of the premises, except that, in the case of a rental unit, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
  - (c) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodation may be necessary to afford such person an equal opportunity to use and enjoy a dwelling; and
  - (d) in connection with the design and construction of a covered multifamily dwelling for first occupancy after March 13, 1991, a failure to design and construct such dwelling, in a manner that complies with the Fair Housing Act and its implementing regulations.

Notwithstanding the above, compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility for persons with physical disabilities (commonly cited as "ANSI A117.1") suffices to satisfy certain requirements of the Fair Housing Act and its implementing regulations, and nothing in this section shall require a dwelling to be made available to a person whose occupancy would cause a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.

**(3) Exemptions.**

- (a) None of the provisions of subsection (C) of section 9, except subparagraph (C)(1)(f) thereof, shall apply to:
- (i) any single family house sold or rented by an owner, provided that: such private individual owner does not own more than three single family dwellings at any one time; that in the case of the sale of any single family dwelling by a private owner who was not the most recent resident of such house prior to such sale, the exemption granted herein shall apply only with respect to one such sale within any twenty four month period, if such bona fide private individual owner does not own any interest in, nor is there owned or reserved any interest on his behalf, under any express or voluntary agreement, title to or rental of, or any right to all or a portion of the proceeds from the sale or rental of, more than three single family dwellings at one time; the sale or rental of any single family dwelling shall be excepted from the application of this subsection only if such house is sold or rented (A) 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 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, and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of paragraph (1)(f) of this subsection; except that nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer title; or
  - (ii) 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 residence.
- (b) Nothing in subsection (C) of section 9 shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such person, unless membership in such religion is restricted on account of race, color, national origin or disability. Nor shall anything in this subchapter 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.
- (c) The provisions of subsection (C) of section 9 regarding familial status shall not apply with respect to housing for older persons.

**(D) DISCRIMINATION IN PUBLIC ACCOMMODATIONS.**

It shall be a prohibited discriminatory public accommodation practice for any person, including without limitation, any owner, lessee, manager, proprietor, custodian, agent or employee of a place of public accommodation, to discriminate against any individual because of race, color, religion, sexual orientation, familial status, legal source of income, disability, national origin or ancestry, with respect to the terms, conditions and privileges of access to or with respect to the uses, services and enjoyment of a place of public accommodation.

**(E) DISCRIMINATION IN CITY ACTIVITIES OR PROGRAMS.**

No person shall, on the ground of race, marital status, color, age, religion, sexual orientation, familial status, disability, national origin or ancestry, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving funding or other financial assistance or relief directly or indirectly from the City of St. Louis.

**(F) UNLAWFUL INTIMIDATION OR RETALIATION.**

It shall be a prohibited discriminatory practice for any person, directly or indirectly, to discriminate, coerce, intimidate, threaten, interfere with, or retaliate against any person because he has: opposed any practice made unlawful by this Ordinance; has exercised his rights, or encouraged another to exercise his rights under this Ordinance; or because he has filed a complaint, cooperated with an investigation of an alleged prohibited discriminatory practice, testified at a hearing held by the Commission, or otherwise assisted in any proceeding under this Ordinance.

**(G) UNLAWFUL INTERFERENCE.**

It shall be unlawful to interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, rights granted and protected by this ordinance.

**(H) EXEMPTIONS.**

- (1) Nothing in this Ordinance shall limit the applicability of any reasonable local, State or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling, nor shall any provision of this Ordinance regarding familial status apply with respect to Housing for Older Persons.
- (2) Nothing in this Ordinance shall prohibit conduct against a Person because such Person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by State and Federal law.
- (3) A Person shall not be held personally liable for monetary damages for a violation of this Ordinance if such Person reasonably relied, in good faith, on the application of the exemption under this section relating to Housing for Older Persons. For the purpose of this subparagraph 3, a Person may only show good faith reliance on the application of this exemption by showing that:
  - (a) such Person has no actual knowledge that the facility or community is not or will not be eligible for such exemption; and
  - (b) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

**Section Ten. Agency Action; Preliminary Matters.****(A) Complaints and Answers.**

- (1) An aggrieved person may, not later than one hundred eighty (180) days after an alleged prohibited discriminatory practice has occurred or terminated, file a complaint with the Director. Such complaint shall be in writing, and shall contain such information and be in such form as required by the Director. An agent or attorney of complainant may sign such complaints. Notice shall be served on complainants and respondents consistent with the "notice provisions" of this Section Ten. Where a complaint alleges that a respondent has engaged in a prohibited discriminatory practice which would also be a violation of the provisions of Chapter 213 R.S.Mo., the complaint shall be handled and investigated as a complaint alleging violation of state law.
- (2) The Director, on his own initiative, may also file a complaint. Complaints shall be in writing and shall contain such information and be in such form as those complaints filed by aggrieved persons. Where a Director's complaint alleges that a respondent has engaged in a prohibited discriminatory practice that violates the Ordinance and the provisions of Chapter 213 R.S.Mo., the complaint shall be handled and investigated as a complaint alleging violation of state law. The Director shall have authority to determine whether a complaint should be filed.
- (3) Whenever a complaint alleges a prohibited discriminatory practice that, if proven true, would violate this Ordinance, but does not violate any of the provisions of Section 213 R.S. Mo., the Director shall cause such complaint to be investigated, and if the Director determines that there is probable cause to believe that a prohibited discriminatory practice has occurred, the Director shall refer the matter to the City Counselor for

prosecution.

- (4) Any complaint which is filed with the federal Equal Employment Opportunity Commission, the Missouri Commission on Human Rights, or other federal or state agency with which the Commission or Director has entered into a work sharing or deferral agreement shall be deemed filed with the Director on the date that such complaint is received by such federal or state agency. A copy of all complaints with respect to which the Missouri Commission on Human Rights would have jurisdiction shall be forwarded to the Missouri Commission on Human Rights within seven days after the complaint is filed with the Director.
  - (5) As soon as practicable upon receipt of a complaint, the Director shall make a determination as to whether the Agency will defer or waive further action thereon pursuant to agreement with Federal or Missouri governmental entities having jurisdiction over a substantially identical complaint filed by the same complainant under similar Federal or Missouri law, in which case the Director shall notify the complainant and the respondent of such deferral or waiver.
  - (6) When a complaint has been filed, the Director shall:
    - (a) serve notice upon the complainant acknowledging filing of the complaint and advising the complainant of the time limits and choice of forums available pursuant to federal and state law and this Ordinance.
    - (b) not later than ten (10) days after such filing, or the identification of an additional person whom the complainant or the Director determines should be added as a respondent, serve on the respondent a notice identifying the alleged prohibited discriminatory practice and advising the respondent of the procedural rights and obligations of respondents under this ordinance, together with a copy of the original complaint.
  - (7) A respondent may file, not later than ten (10) days after receipt of a notice from the Director pursuant to paragraph (2) of this subsection, an answer to the complaint, provided, however, that such answer, for the purpose of meeting the of the ten-day time limitation specified in this subparagraph, may consist of an acknowledgment of receipt of complaint together with a request for an extension of an additional twenty (20) days or less for the filing of a complete answer.
  - (8) Complaints and answers shall be under oath or affirmation and may be reasonably and fairly amended at any time.
  - (9) A person who is not initially named as a respondent in a complaint, but whom complainant believes should be added as a respondent, or who is identified as a potential violator of the provisions of this ordinance and/or Chapter 213 R.S.Mo. during investigation of the complaint, may be joined as an additional or substitute respondent upon written notice from the Director. Such notice shall specify the reasons such person is being added as respondent.
  - (10) Where the Director has deferred or waived action pursuant to the provisions of paragraph (3) of this subsection, he shall take no further action thereon under the provisions of this Ordinance.
- (B) Conciliation.
- (1) During the period beginning with the filing of a complaint and ending with either a probable cause determination or dismissal, the Agency shall, to the extent feasible, engage in conciliation with respect to such complaint.
  - (2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Director.
  - (3) A conciliation agreement may provide for binding arbitration of the dispute from which the complaint arises. Any such arbitration conducted pursuant to a conciliation agreement may award appropriate relief, including monetary relief.
  - (4) Every conciliation agreement resolving a complaint filed pursuant to this section alleging violation of subsection

(C) of Section Nine of this ordinance shall be made public, unless the complainant and respondent agree otherwise and the Director determines that disclosure of the agreement is not required to further the purposes of this ordinance. Every conciliation agreement resolving a complaint filed pursuant to this section alleging violation of either subsection (B) or (D) of section nine of this ordinance shall only be disclosed or made public if complainant and respondent agree to have such agreement made public.

- (5) Nothing said or done in the course of attempts to conciliate a complaint may be made public or used as evidence in a subsequent proceeding under this ordinance without the written consent of the person(s) concerned.
- (6) Breach of a conciliation agreement resolving a complaint filed hereunder shall constitute a violation of this ordinance. Where the Director has reason to believe that such a breach has occurred he may attempt further conciliation and/or refer the matter to the City Counselor for prosecution in municipal court.
- (7) Where a complaint alleges an action or occurrence which would constitute a violation of the provisions of Chapter 213 R.S.Mo., and the complainant and the respondent have thereafter entered into a conciliation agreement which has subsequently been violated by the respondent, the Director shall recommend to the City Counselor or to the Attorney General of the State of Missouri that an action be filed for enforcement of the conciliation agreement.

(C) Investigation.

- (1) The Agency shall make an investigation of the complaint of prohibited discriminatory practice, commencing before the end of the 30th day after receipt of the complaint, and completing such investigation within 100 days after the filing of the complaint, unless it is impracticable to do so. If the Agency is unable to complete the investigation within 100 days after the filing of the complaint, the Director shall continue the investigation and shall notify the complainant and respondent in writing of the reasons for not completing the investigation within 100 days. The Agency must make final administrative disposition of a complaint within one year of the date of receipt of a complaint, unless it is impracticable to do so. If the Agency is unable to do so, it shall notify the parties in writing, of the reasons for not doing so, and continue the investigation until complete. If the parties enter into a conciliation agreement pursuant to the provisions of Section Ten(B) of this Ordinance, the investigation shall be terminated upon approval of the conciliation agreement by the Director.
- (2) The Agency may, in assistance of its investigation, direct interrogatories to any or all complainants and/or respondents. Parties shall respond thereto within twenty (20) days of issuance thereof.
- (3) At the conclusion of the investigation of a complaint pursuant to the provisions of this section, the Agency shall prepare a final investigative report which shall contain the names and dates of contacts with witnesses and a summary of statements made by such witnesses; a summary and the dates of correspondence and contact with the complainant(s) and respondent(s); a summary of other pertinent documents examined by the Agency; and answers to interrogatories propounded by the Agency. This report may be amended if additional relevant evidence is uncovered subsequent to filing of the report. The investigative report shall be made available to both the complainant and the respondent. Until completion of such a report, a party shall only be given access to documents in the possession of the Commission or Agency which that party provided to the agency.

(D) Prompt Judicial Action to Preserve Rights.

If the Director concludes at any time subsequent to the filing of a complaint that prompt judicial action is necessary to protect or prevent frustration of rights protected by Chapter 213 R.S.Mo., he shall authorize a civil action for appropriate temporary or preliminary relief pending final disposition of a complaint filed pursuant to the provisions of this section. Upon receipt of such authorization, the City Counselor may commence and maintain such an action. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings pursuant to this Ordinance.

(E) Probable Cause Determination and Effect.

- (1) Within ten (10) days of conclusion of an investigation of a complaint, the Director shall make a determination as to whether probable cause exists, based on the investigation, to believe that the respondent has committed or engaged in a prohibited discriminatory practice or is about to commit or engage in a prohibited discriminatory

practice.

- (2) If the Director determines that probable cause exists to believe that a prohibited discriminatory practice has occurred or is about to occur which would also constitute a violation of any of the provisions of Chapter 213 R.S.Mo., he shall immediately issue a charge on behalf of the complainant which shall be referred to a hearing officer for further proceedings pursuant to section 11 of this Ordinance. Such charge shall consist of a short and plain statement of the facts upon which the Director has found reasonable cause to believe that a prohibited discriminatory practice has occurred or is about to occur. It need not be limited to the facts or grounds alleged in the complaint.
- (3) If the Director determines that probable cause exists to believe that a prohibited discriminatory practice has occurred which does not constitute a violation of the provisions of Chapter 213 R.S.Mo., he shall immediately refer such matter to the City Counselor for prosecution in municipal court. In such case, the Director may continue efforts at conciliation.
- (4) If the Director determines that no probable cause exists to believe that a prohibited discriminatory practice has occurred or is about to occur, he shall immediately dismiss the complaint. The Director shall make public all dismissals of a complaint.
- (5) No charge shall be issued under this section after the commencement of the trial of a civil action, initiated by a complainant under either state or federal law, which seeks relief with respect to the prohibited discriminatory practice alleged in the complaint.
- (6) Immediately upon issuing a charge, the Director shall cause a copy thereof, together with information as to how an election may be made pursuant to §213.076 R.S.Mo. and the effect of such an election, to be served on each complainant and respondent, together with notice of the time and place that a hearing on the charge will be held, unless an election is made pursuant to §213.076 R.S.Mo.

#### **Section Eleven. Administrative Proceedings Subsequent to Issuance of Charges.**

- (1) The Director may issue subpoenas to compel the attendance of witnesses at hearings held before a hearing officer on a charge either on his own motion or at the request of either the complainant or the respondent. Any person who willfully fails or neglects to attend and testify at a hearing pursuant to subpoena issued pursuant hereto shall be in violation of this Ordinance. The Director shall also have authority to seek judicial enforcement of subpoenas issued by him.
- (2) Any party to a complaint on which a charge has been issued may take and use depositions, written interrogatories, requests for production of documents and other materials, and requests for admissions, and all other forms of discovery authorized by the Rules of Civil Procedure in the same manner, upon, and under the same conditions, and upon the same notice, as is or may hereafter be provided for with respect to the taking and using of depositions, written interrogatories, requests for production of documents and other materials, and requests for admissions, and all other forms of discovery authorized by the Rules of Civil Procedure in civil action in state circuit court. The hearing officer appointed to conduct a hearing on a charge may establish a schedule for conduct of discovery in such matter and shall have authority to seek judicial sanctions against any party willfully failing to comply with a request for discovery.
- (3) Where no election has been made under §213.076 R.S.Mo. with respect to a charge issued by the Director, a hearing shall be held thereon by a hearing officer appointed by the Director, unless the respondent admits to having committed the violations as set forth in the charge. This hearing shall be held at the place and time designated in the original notice of the charge, unless the hearing be continued by written order of the hearing officer. In any event, hearings on a charge shall commence within 120 days following issuance of the charge, unless it is impracticable to do so. If hearings are not to be commenced within 120 days of issuance of the charge, the hearing officer shall notify the Director, the complainant(s) and the respondent(s) of the reason for not doing so. At said hearing, each party may appear in person, be represented by counsel, present evidence, and cross examine witnesses. Any aggrieved person may intervene as a party in the proceeding. The admission of evidence at the

hearing shall be controlled by the provisions of §536.070 R.S.Mo. The hearing officer shall have full authority to call and examine witnesses, admit or exclude evidence and rule upon all motions and objections.

- (4) No charge shall be resolved prior to issuance of a final order without consent of all complainants on whose behalf the charge has been issued.
- (5) Administrative proceedings under this section regarding any alleged prohibited discriminatory practice shall be dismissed or held in abeyance after the beginning of trial on a civil action commenced by a complainant under federal or state law, seeking relief with respect to such alleged prohibited discriminatory practice, and the Director shall not issue charges with respect to such complaint after such trial has commenced.
- (6) Within sixty (60) days of the conclusion of the hearing on a charge, the hearing officer shall file recommended findings of fact, conclusions of law, and a proposed order with the Commission. A tape recording of the proceedings at the hearing, together with copies of all exhibits introduced into evidence at the hearing, shall also be filed with the Commission.
- (7) Upon receipt of the above, the Commission shall appoint a panel of at least three members of the Commission, or shall act as a whole, to review the tape and the proposed findings of fact, conclusions of law and recommended order prepared by the hearing officer. Within thirty days of the receipt of a submission from a hearing officer, the panel, or the Commission acting as a whole where it has decided to proceed in such manner, shall issue findings of fact, conclusions of law and a final order. Where review of the record and hearing officer's submission has been assigned to a panel of the Commission, the findings of fact, conclusions of law, and order issued by that panel shall be the findings of fact, conclusions of law and order of the Commission as a whole.
- (8) If the Commission finds that a respondent has engaged, or is about to engage, in a prohibited discriminatory practice, the Commission shall promptly issue an order for such relief, as provided for by subsection (11) of §213.075 R.S.Mo., as may be appropriate and authorized by law.
- (9) No order issued by the Commission shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer or tenant without actual notice of the charge filed pursuant to this section.
- (10) Upon issuing its order, the Commission shall, within thirty (30) days thereof, submit said order to the Missouri Commission on Human Rights for review. Within forty five (45) days of issuance of its order, it shall transmit a written copy of the transcript of the hearing and a complete copy of the written record to the Missouri Commission on Human Rights. No decision of the Commission shall be final for purposes of enforcement or appeal, until either the order is affirmed by a hearing examiner of the Missouri Commission or more than ninety days pass from the date upon which the complete transcript and record was received by the Missouri Commission without any opinion being issued thereon by the state commission's hearing examiner.
- (11) In the case of an order finding that a respondent engaged in a prohibited discriminatory practice that occurred in the course of a business which requires licensing or permitting by a governmental agency (other than a business license or occupancy permit), the Director shall, within thirty days of an order of the Commission becoming final, send copies of the Commission's findings of fact, conclusions of law and order to that agency, together with a recommendation of appropriate disciplinary action.
- (12) Where a respondent has been found to have engaged in a prohibited housing or realty practice twice within the preceding five year period, the Director shall send a copy of each order to the Assistance Secretary for Fair Housing of the Department of Housing and Urban Development, to the Missouri Commission on Human Rights, the Missouri Attorney General, and the City Counselor.
- (13) If the Commission finds that the respondent has not engaged and is not about to engage in a prohibited discriminatory practice, he shall enter an order dismissing the charge. The Director shall make public

each such dismissal.

#### **Section Twelve. Judicial Review.**

Any party aggrieved by a final decision of the Commission shall have the right to seek judicial review of such decision, as in other contested cases, pursuant to the provisions of Chapter 536 R.S.Mo. Any petition for judicial review of a final order of the Commission must be filed within thirty days of the date on which such order became final.

#### **Section Thirteen. Enforcement of Commission Orders.**

- (A) If no petition for judicial review is filed within thirty (30) days of the date on which an order of the Commission becomes final, The Director may authorize the City Counselor to file suit in Circuit Court seeking enforcement of the Commission's order, as provided for in §213.085.3 R.S.Mo. The City Counselor shall thereafter file a petition in Circuit Court seeking to enforce the Commission's decision. The relief which may be granted on such petition, and the procedure thereon, shall be that provided by §213.085.3 R.S.Mo.
- (B) If no petition is filed by the City Counselor for enforcement of a Commission order within sixty days of issuance of said order, a complainant entitled to relief under such order may file a petition for enforcement as provided by §213.085.4 R.S.Mo.

#### **Section Fourteen. Representation of Complainant Where Election is Made Pursuant to §213.076.1 R.S.Mo.**

If the Director has made a finding of probable cause and an election is made pursuant to Section 213.076.1, R.S.Mo., the Director shall request that the City Counselor file suit on behalf of the City and, if one or more complainants or aggrieved persons choose not to retain private counsel, on behalf of any complainant or aggrieved person not represented by private counsel. Within thirty days (30) of such request being made, the City Counselor, or private counsel retained under contract by the City Counselor, shall commence and maintain a civil action in Circuit Court in the name of the City and any complainant not represented by private counsel seeking relief as authorized by Chapter 213, R.S.Mo. Should the City Counselor prevail in such suit, he is hereby authorized and directed to seek attorney's fees. Any attorney's fees recovered by the City shall be paid into the general revenue fund of the City. The City Counselor may retain private counsel to commence and maintain the lawsuit, but shall not through such retention delegate decision-making authority with respect to such suit to such private counsel.

#### **Section Fifteen. Savings Clause.**

- (A) The substantive rights, duties and liabilities of any person which have arisen or accrued pursuant to any Ordinance repealed hereby shall not be extinguished, prejudiced or otherwise altered due to the repeal of said Ordinances and the adoption hereof but shall be reserved until satisfied, resolved and terminated, pursuant to the provisions of said ordinances.
- (B) The rights, duties and liabilities of any person, as that term is defined hereinafter, which arise after the effective date of this ordinance, shall be governed by the provisions of this ordinance.

#### **Section Sixteen. Severability Clause.**

If any provision of this Ordinance shall be held invalid, the remainder of this Ordinance, to the extent severable therefrom, shall not thereby be invalidated.

#### **Section Seventeen. Penalty.**

Any person convicted of violation of this Ordinance shall be punished by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred dollars (\$500.00), or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment, unless a higher maximum fine is subsequently dictated by Charter amendment, in which case the maximum fine shall be increased to such higher maximum authorized by the amendment.

#### **Section Eighteen. Construction of this Ordinance.**

The provisions of this Ordinance shall be construed liberally for the accomplishment of the purposes thereof.

**Section Nineteen. Emergency Clause.**

This Ordinance being necessary for the immediate preservation of the public safety and welfare, it is hereby declared to be an emergency measure, and shall be effective immediately upon its passage and approval by the Mayor.

**Approved: June 13, 2006**