

CHAPTER 94: FAIR HOUSING CODE

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GENERAL PROVISIONS

§ 94.01 TITLE.

This chapter shall be known and may be cited as the "Town of Southern Pines Fair Housing Code." (1989 Code, § 94.01) (Ord. passed 11-28-1980)

§ 94.02 PURPOSE.

The general purposes of this chapter are:

(A) To provide for execution, within the Town, of the policies embodied in Title VIII of the Federal Civil Rights Act of 1968, as amended; and

(B) To safeguard all individuals within the Town from discrimination in housing opportunities because of race, color, religion, national origin, or sex; to protect their interest in personal dignity and freedom from humiliation; to secure the Town against domestic strife and unrest which would menace its democratic institutions; to preserve the public health and general welfare; and to further the interests, rights, and privileges of individuals within the Town.
(1989 Code, § 94.02) (Ord. passed 11-28-1980)

§ 94.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

DISCRIMINATION. Any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, or sex, or the aiding, abetting, inciting, coercing, or compelling thereof.

FINANCIAL INSTITUTION. Any person as defined herein, engaged in the business of lending money or guaranteeing losses.

HOUSING ACCOMMODATION. Improved and unimproved property, including a building, structure, mobile home, trailer, or portion thereof which is used or occupied, or is intended, arranged, or designed to be used or occupied as a home or residence of 1 or more individuals.

OWNER. The person, firm, or corporation in whom is vested the ownership, dominion, or title of property. He or she who has dominion of a thing, real or personal, corporeal or incorporeal, which he or she has the right to enjoy and do with as he or she pleases, as far as the law permits, unless he or she is prevented by some agreement or covenant which restrains his or her right.

PERSON. Individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

POSSESSOR. One who possesses; one who has possession, such as lessee, sublease, co-tenant, managing agent, or other person having the right of possession.

REAL ESTATE BROKER or REAL ESTATE SALESPERSON. Any individual, whether licensed or not, who on behalf of others for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases any real estate or the improvements thereon, including options; who negotiates or attempts to negotiate an activity; who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance on a transfer of real estate; 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 or she undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for that purpose; or an individual employed by or acting on behalf of any of these.

REAL PROPERTY. Buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in them.
(1989 Code, § 94.03) (Ord. passed 11-28-1980)

REQUIREMENTS OF FAIR HOUSING CODE

§ 94.20 ENUMERATED UNLAWFUL HOUSING PRACTICES.

It shall be an unlawful practice for a real estate owner or operator or for a real estate broker, real estate salesperson, or any individual employed by or acting on behalf of any of the above to do the following:

(A) Refuse to sell, purchase, rent, lease, or deny to or withhold any housing accommodation from a person because of his or her race, color, religion, ancestry, national origin, sex, or place of birth;

(B) Discriminate against a person in the terms, conditions, or privileges of the sale, purchase, rental, or lease of any housing accommodation, or in the furnishing of facilities or services in connection therewith;

(C) Refuse to receive or transmit a bona fide offer to sell, purchase, rent, or lease any housing accommodation from or to a person because of his or her race, color, religion, ancestry, national origin, sex, or place of birth;

(D) Refuse to negotiate for the sale, purchase, rental, or lease of any housing accommodation to a person because of his or her race, color, religion, ancestry, national origin, sex, or place of birth;

(E) Represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental, or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation because of his or her race, color, religion, national origin, sex, or place of birth;

(F) Make, publish, print, circulate, post, or mail, or cause to be made, published, printed, circulated, posted, or mailed, any notice, statement, or advertisement, or to announce a policy; to sign or

use a form of application for the sale, purchase, rental, lease, or financing of any housing accommodation; or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease, or financing of any housing accommodation, which indicates any discrimination or any intent to make a discrimination;

(G) Offer, solicit, accept, or use a listing of any housing accommodation for sale, purchase, rental, or lease with the understanding that a person may be subjected to discrimination in connection with the sale, purchase, rental, or lease, or in the furnishing of facilities or services in connection therewith;

(H) Induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, rental, or lease, or the listing of any of the above, of any housing accommodation by representing that the presence or anticipated presence of persons of any particular race, color, religion, sex, national origin, or place of birth in the area to be affected by the sale, purchase, rental, or lease will or may result in either:

(1) The lowering of property values in the area;

(2) An increase in criminal or antisocial behavior in the area; or

(3) A decline in the quality of the schools serving the area.

(I) Make any misrepresentations concerning the listing for sale, purchase, rental, or lease, or the anticipated listing for any of the above, or the sale, purchase, rental, or lease of any housing accommodation in any area for the purpose of inducing or attempting to induce any listing or any of the above transactions;

(J) Engage in, hire to be done, or conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest, or create or play on fear, with the purpose of either discouraging or inducing, or attempting to

induce, the sale, purchase, rental, or lease, or the listing for any of the above, of any housing accommodation;

(K) Retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this chapter, or because he or she has filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, hearing, or conference under this chapter;

(L) Aid, abet, incite, compel, or coerce any person to engage in any of the practices prohibited by this chapter; or to obstruct or prevent any person from complying with the provisions of this chapter, or any order issued thereunder;

(M) By canvassing to commit any unlawful practices prohibited by this chapter;

(N) Otherwise to deny to, or withhold any housing accommodation from a person because of his or her race, color, religion, ancestry, national origin, sex, or place of birth;

(O) For any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling; or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other terms or conditions of the loans or other financial assistance, because of the race, color, religion, sex, or national origin of the person or of any person associated with him or her in connection with the loan or other financial assistance or the purposes of the loan or other financial assistance or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which the loan or other financial assistance is to be made or given;

(P) Deny any qualified 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 or her in the terms or conditions of access, membership, or participation, on account of race, color, religion, sex, or national origin.

(1989 Code, § 94.10) (Ord. passed 11-28-1980)
Penalty, see § 94.99

§ 94.21 EXEMPTIONS FROM PROVISIONS.

This chapter shall not apply to:

(A) A religious organization, association, society, or any nonprofit institution or organization operating, supervised, or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupancy of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to those persons, unless membership in the religion is restricted on account of race, color, sex, or national origin;

(B) 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, and which limits the rental or occupancy of the lodgings to its members or gives preference to its members;

(C) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than 4 families living independently of each other, if the owner actually maintains and occupies 1 of the living quarters as his or her residence; or

(D) Any single-family house sold or rented by an owner as long as the private individual owner does not own more than 3 single-family houses at any 1 time. In addition, in the case of the sale of any single-family house by a private individual owner not residing in the house at the time or prior to the sale, the exemption granted by this division shall apply

only with respect to 1 sale within any 24 month period. Further, the bona fide private individual owner shall not own any interest in, nor shall there be owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than 3 single-family houses at any 1 time. Finally, the sale or rental of any single-family house shall be excepted from the application of this section only if the house is sold or rented:

(1) Without the use of any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or of the facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any broker, agent, salesperson, or person; and

(2) Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 U.S.C. § 3604(c) or of § 94.20. However, nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title.

(1989 Code, § 94.11) (Ord. passed 11-28-1980)

§ 94.22 ENFORCEMENT PROCEDURE.

(A) Any person who claims to have been injured by an unlawful housing practice or who believes that he or she will be irrevocably injured by an unlawful housing practice that is about to occur may file a complaint with the Town.

(B) All complaints shall be filed within 180 days after the alleged unlawful housing practice occurred. Complaints shall be in writing and shall state the facts on which allegations of a violation of this chapter are based. The respondent may file an answer to the complaint. Both complaint and answer may be amended.

(C) Upon receipt of the complaint, either from the complainant or the Secretary of the Department of Housing and Urban Development, the Town shall designate an agent to investigate the matter, to notify the person who allegedly committed or are about to commit the alleged unlawful housing practice, and to seek to conciliate the alleged violation.

(C) In addition to appropriate civil or equitable remedies for enforcement of this chapter, an offender may be subjected to criminal prosecution for violation of this chapter.

(1989 Code, § 94.99) (Ord. passed 11-28-1980)

(D) If the Town is unable to resolve the alleged discrimination within 30 days, the complainant may file or request the Town to file the complaint with the Secretary of HUD pursuant to Title VIII of the Civil Rights Act of 1968, and may commence a civil action in the General Court of Justice for enforcement of this chapter.

(1989 Code, § 94.12) (Ord. passed 11-28-1980)

§ 94.23 AGENCY RELATIONSHIP NO DEFENSE IN PROCEEDING AGAINST REAL ESTATE DEALER.

It shall be no defense to a violation of this chapter by a real estate owner or operator, real estate broker, real estate salesperson, financial institution, or other person subject to the provisions of this chapter, that the violation was requested, sought, or otherwise procured by a person not subject to the provisions of this chapter.

(1989 Code, § 94.13) (Ord. passed 11-28-1980)
Penalty, see § 94.99

§ 94.99 PENALTY.

(A) The violation of any of the provisions of this chapter shall subject the violator to civil penalty in the amount of \$200, to be recovered in a civil action, provided that in the case of a continuing violation, the total penalty shall not exceed \$1,000.

(B) The Town may sue in a civil act through the General Court of Justice for appropriate remedies to enforce the provision of this chapter, including temporary restraining orders and mandatory and prohibitory injunctions.

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