

McGeis 2019-4-4

Memorandum

Department of Public Works



TO: Michael O. Geisel, P.E.
City Administrator

FROM: James A. Eckrich, P.E. *JAE*
Public Works Dir. / City Engineer

DATE: April 4, 2019

RE: City of Chesterfield Fair Housing Act

For some time the City of Chesterfield has been making a concerted effort to ensure that all of its policies and ordinances are in compliance with Missouri law. It has recently come to my attention that the City's Fair Housing Ordinance (Ordinance 863, attached) requires modifications in order to comply with Chapter 23 of the Missouri Statutes. Specifically, the City of Chesterfield Fair Housing Ordinance (via reference to Ordinance 131, attached) establishes the City of Chesterfield Human Rights Commission (Commission). The Commission was created, in part, to receive and investigate complaints involving housing discrimination. However, a local commission (such as the City of Chesterfield Human Rights Commission) cannot perform such a task unless the local commission is certified by the Missouri Commission on Human Rights. Additionally, any such local commission must have been established prior to August 13, 1986. The City of Chesterfield's Human Rights Commission has never been certified, and, in fact, cannot be certified since it was established on July 18, 1988. Instead, assertions of housing discrimination should be made to the Missouri Commission of Human Rights, which was established for this purpose. For informational purposes, there are only two certified Human Rights Commissions in the State of Missouri aside from the Missouri Commission on Human Rights; the Kansas City Human Rights Commission and the St. Louis Civil Rights Enforcement Agency.

In order to correct the problem with the City's Fair Housing Ordinance, I have drafted the attached ordinance, with the assistance of the City Attorney. The most substantive change in the draft ordinance is the modification of existing Section 9-24, and the repeal of Section 9-25 of the City of Chesterfield Municipal Code. These sections delineate the Powers and Duties of the Commission, and the Proceedings before the Commission. These two sections have been replaced with a new Section 9-24, which stipulates that complaints regarding housing discrimination must be filed with the Missouri Commission on Human Rights. In addition, the following minor changes are recommended:

- Section 9-19. Delete the definition of “Investigator” since all investigations will be completed by the Missouri Commission on Human Rights.
- Section 9-19. Add “Missouri” to the definition of Commission, clarifying that the Commission is the Missouri Commission on Human Rights.
- Section 9-20(b)(3). Add language which clarifies the exemptions that are allowed for senior housing.
- Section 9-26. Repeal section covering “Private Remedies”, as the City cannot create a private course of action via municipal ordinance. Instead, someone filing a complaint is referred to the Missouri Commission on Human rights.
- Section 9-27. Repeal section covering “Penalties”, as ordinance violations are already covered in Section 1-8 “General Penalties”.

The proposed changes will have minimal impact to the City of Chesterfield. The City of Chesterfield Human Rights Commission has met very few times in the history of the City. Additionally, the City will still be able to participate in the Community Development Block Grant Program because we maintain a Fair Housing Ordinance, and that ordinance contains a mechanism for enforcement (the Missouri Commission on Human Rights).

Should you have questions regarding the proposed modifications to the City’s Fair Housing Ordinance, please contact me. Otherwise, I recommend approval of the attached ordinance to ensure claims of discrimination are handled appropriately, and in compliance with Missouri law.

Action Recommended

This matter should be forwarded to the Planning and Public Works Committee for consideration. Should the PPW Committee vote in favor of the Staff recommendation, it should vote to forward the attached ordinance to the full City Council.

cc: Chris Graville, City Attorney

BILL NO.

ORDINANCE NO.

AN ORDINANCE REVISING CHAPTER 9, ARTICLE II OF THE CITY OF CHESTERFIELD MUNICIPAL CODE RELATED TO FAIR HOUSING IN THE CITY OF CHESTERFIELD.

WHEREAS, the City of Chesterfield seeks to secure to all persons living and/or working, or desiring to live and/or work in the City of Chesterfield, an equal opportunity to view, purchase, lease, rent, or occupy real estate without discrimination based on race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status, or national origin; and

WHEREAS, the City of Chesterfield strives to ensure that its Fair Housing Ordinance is current and consistent with federal and state law; and

WHEREAS, pursuant to the Missouri Human Rights Act, the Missouri Human Rights Commission has jurisdiction to receive, investigate, initiate and pass upon complaints alleging discrimination in housing;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST LOUIS COUNTY, MISSOURI, THAT CHAPTER 9, ARTICLE II, OF THE CHESTERFIELD MUNICIPAL CODE, IS MODIFIED AS FOLLOWS:

Section 9-19. Definitions:

Delete the definition of Investigator and add “Missouri” to the definition of Commission, as follows:

~~INVESTIGATOR – An employee of the City or the Commission, designated by the City Administrator, with the approval of the Commission.~~

COMMISSION - The Missouri Commission on Human Rights.

Section 9-20 Discrimination Prohibited:

Repeal Section 9-20(b)(3) in its entirety and replace with the following:

(b) Exemptions. This article shall not:

(3) Prohibit the operation of: 1) Housing with at least one person who is 55 years of age or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 years of age or older; 2) Housing which is intended for, and solely occupied by, persons 62 years of age or older; 3) Housing specifically designed and operated to assist elderly persons, as defined in a state or federal program.

Section 9-24 Powers and Duties of Commission:

Repeal section 9-24 in its entirety and replace with the following:

Section 9-24. Filing a Complaint. Pursuant to the Missouri Human Rights Act, Missouri Revised Statute 213.010 – 213.137, the Missouri Commission on Human Rights has jurisdiction to receive, investigate, initiate and pass upon complaints alleging discrimination in housing. Any complaint alleging a violation of this Article shall be filed in strict compliance with the Missouri Human Rights Act, Missouri Revised Statute 213.010 – 213.137.

Section 9-25 Proceedings Before Commission:

Repeal Section 9-25 in its entirety.

Section 9-26 Private Remedies:

Repeal Section 9-26 in its entirety.

Section 9-27 Penalty

Repeal Section 9-27 in its entirety

This Ordinance shall be in full force and effect after its passage and approval by the City of Chesterfield City Council.

Passed and approved this _____ day of _____, 2019

PRESIDING OFFICER

Bob Nation, MAYOR

ATTEST:

Vickie Hass, CITY CLERK

FIRST READING HELD:

City of Chesterfield, MO
Friday, March 8, 2019

Chapter 9. Discrimination

Cross reference — Municipal court, Ch. **19**.

State law reference — Human rights, RSMo. Ch. 213.

Article I. In General

Sec. 9-1. through Sec. 9-15. (Reserved)

Article II. Fair Housing Code

[1] *Editor's Note: Ord. No. 863, § 1, adopted December 20, 1993, repealed Art. II, §§ 9-16 — 9-27, which pertained to the fair housing code. Sections 2 — 13 enacted new provisions designated by the editor as new Art. II, §§ 9-16 — 9-27, to read as herein set out. See the Code Comparative Table.*

Cross references — Buildings and building regulations, Ch. 7; unified development, Ch. 31.

Sec. 9-16. Short title.

[Ord. No. 863, § 2, 12-20-1993]

This article shall be known and may be cited as the "Fair Housing Ordinance of the City of Chesterfield".

Sec. 9-17. Purpose and declaration of policy.

[Ord. No. 863, § 3, 12-20-1993]

It is hereby declared to be the policy of the City and the purpose of this article, in the exercise of its police and regulatory powers for the protection of the public safety, for the health, morals, safety and welfare of the persons in and residing in the City, and for the maintenance and promotion of commerce, industry, and good government in the City, and to promote and protect fair housing opportunities throughout the City and to acknowledge the value of diversity within our community, to secure to all persons living and/or working, or desiring to live and/or work in the City of Chesterfield, an equal opportunity to view, purchase, lease, rent or occupy real estate without discrimination based on race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin.

Sec. 9-18. Severability.

[Ord. No. 863, § 4, 12-20-1993]

If any provision of this article or the application thereof to any person or circumstances is held invalid, the remainder of this article and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Sec. 9-19. Definitions.

[Ord. No. 863, § 5, 12-20-1993]

For the purpose of this article:

INVESTIGATOR

An employee of the City or the Commission, designated by the City Administrator, with the approval of the Commission.

AGE CLASSIFICATION

Includes any person eighteen (18) years of age or older.

CHILD

Any person under the age of eighteen (18) who is a member of a family.

COMMISSION

The Commission on Human Rights.

DISCRIMINATION OR DISCRIMINATE

To make distinction in treatment of any person because of race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin.

DWELLING UNIT

A room or group of rooms designed for occupancy by one family with eating, sleeping and living facilities or lodging rooms.

LEASE OR LEASING

Includes and means rent, renting, assignment, sublease and subletting.

LENDING INSTITUTION

Any bank, insurance company, savings and loan association, other person in the business of lending money or guaranteeing loans, any person in the business of obtaining, arranging, or negotiating loans or guarantees as agent or broker, and any person in the business of buying or selling loans or instruments for the payment of money which are secured by title to or a security interest in real estate.

MANAGER

A person who as owner or agent of the owner or owners has the principal responsibility for the management of five (5) or more dwelling units for rent within the City and performs or employs others to perform the services associated with the letting and maintenance of said rental units.

OWNER

Any person who holds legal or equitable title to, or owns any beneficial interest in, any real property or who holds legal or equitable title to shares of, or holds any beneficial interest in, any real estate cooperative which owns any real property or any person who is acting as the agent, manager or employee of the owner.

PERSON

Includes one or more individuals, corporations, partnerships, associations, legal representatives, mutual companies, unincorporated organizations, trusts, trustees, trustees in bankruptcy, receivers and fiduciaries.

PURCHASE

Includes any contract to purchase.

REAL ESTATE BROKER

Any person licensed as a real estate broker in accordance with the provisions of Chapter 339 RSMo. or required thereby to be so licensed.

REAL ESTATE TRANSACTION

The purchase, sale, exchange or lease of any real property and an option to do any of the foregoing.

REAL PROPERTY

Any real estate improved or unimproved, within the City limits, including rooming units.

SALE

Includes any contract to sell, exchange or to convey, transfer or assign legal or equitable title to or a beneficial interest in real property.

STEERING

To encourage or discourage the sale or rental of real property because of the race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin of persons in the neighborhood in which the property is located. This shall include but is not limited to directing persons into or away from areas because of race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin of persons in the area or purported to be moving into the area.

Sec. 9-20. Discrimination prohibited.

[Ord. No. 863, § 6, 12-20-1993]

(a) No person, including but not limited to, any owner, manager, lessee or sublessee of real property, real estate broker, lender, financial institution, advertiser, real estate appraiser, or agent of any of the foregoing, shall discriminate against any other person (or discriminate against such person because of the race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status) in regard to the sale or rental of or dealings concerning real property. Any such discrimination shall be unlawful. Without limiting the foregoing, it shall also be unlawful discrimination for any person to:

(1) *Policies and publicity.* Advertise, publish, display or circulate or cause to be published, displayed, advertised or circulated, either in writing or orally, any notice, statement, communication, sign or advertisement, or to announce a policy, or to use any form of application for the purchase, lease, rental, or financing of real property, or to make any record or inquiry in connection with the prospective purchase, rental

or lease of real property, which expresses directly or indirectly any discrimination, or any intent to discriminate.

- (2) *Discriminate in lending.* Discriminate or to participate in discrimination in connection with borrowing or lending money, guaranteeing loans, accepting mortgages, or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repairs or maintenance of any real property in the City.
- (3) *Inducing sales.* Distribute or cause to be distributed written material or statements designed to induce any person to sell or lease real property because of the alleged or actual or because of any present or prospective change in the race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin of persons in the City or neighborhood.
- (4) *Misrepresentation.* Make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any real property for the purpose of inducing or attempting to induce the sale or listing for sale of any real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status, or national origin in the area will or may result in lowering of real property values in the block, neighborhood or area in which the property is located.
- (5) *Refusal to sell.* Refuse to sell or rent real property because of race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin.
- (6) *Refusal to show records of available housing.* Refuse to show to any person who has specified his needs, the list or other records identifying all real properties reasonably meeting such specifications.
- (7) *Withholding housing.* Represent to any person that any real property is not available, or otherwise to withhold real property from any person because of race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin.
- (8) *Refusal to show real estate.* Refuse to show real estate because of the race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin of any prospective purchaser, lessee or tenant, or because of the race, color, religion, religious affiliation, sex, handicap, marital status, familial status or national origin of the residents in the area in which the property is located.
- (9) *Steering.* Encourage or discourage the sale or rental of real property because of the race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin of persons in the neighborhood in which the property is located. This shall include but is not limited to directing persons into or away from areas because of race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin of persons in the area or purported to be moving into the area.
- (10) *Evasion.* Employ any person as a salesman or agent as a means of evading provisions of this article.
- (11)

Providing information. Volunteer oral or written information about the racial composition of a neighborhood unless such information is a factual, accurate and actual response to an unsolicited direct question.

(12) *Information regarding complaints.* Fail, within a reasonable time, to provide information requested by the person charged with enforcement of this article as a result of a complaint alleging a violation of this article.

(13) *Rental application.* Discriminate by denying, or unreasonably delaying the processing of a lease or rental application of a person, discriminate in the fixing of the fee or length of processing time, or other terms and conditions of such application process.

(14) *Listing agreement.* Entering into a listing agreement which discriminates against any person.

(b) Exemptions. This article shall not:

(1) Bar any religious or denominational institution or organization, or any charitable or educational organization operated, supervised or controlled by or in connection with a religious organization, from limiting living accommodations, or giving preference with respect thereto, to persons of the same religion or denomination.

(2) Apply to the leasing of rooms to roomers in a dwelling unit occupied by the owner or lessee of the entire premises as a family household having not more than two (2) roomers exclusive of salaried household employees living on premises.

(3) Prohibit the operation of housing units designed and offered predominantly for use and occupancy by persons over the age of sixty-two (62).

(4) Bar any charitable or educational organization from limiting to persons of the same sex the rental of living accommodations in facilities primarily providing single room occupancy.

(5) Include an individual whose only connection with the discrimination is his association with a group or entity which owns, manages, brokers, loans, advertises, or appraises the real property, unless that individual was involved in the discrimination personally.

Sec. 9-21. Discrimination in lending.

[Ord. No. 863, § 7, 12-20-1993]

It shall be unlawful and a violation of this article for any lending institution to discriminate in making, agreeing to make, arranging or negotiating any loan or guarantee of funds for the purpose of financing the purchase or sale, construction, lease, rehabilitation, improvement, renovation, or repair of any real estate property, or to offer, seek or agree to terms, conditions or privileges that discriminate.

Sec. 9-22. Refusal to deal in lending.

[Ord. No. 863, § 8, 12-20-1993]

It shall be unlawful and a violation of this article for any lending institution to refuse to negotiate for, enter into, or perform any agreement to lend or guarantee the loan of funds for the purchase, sale, construction, lease, rehabilitation, improvement, renovation, or repair of any real property because of discrimination.

Sec. 9-23. Coverage.

[Ord. No. 863, § 9, 12-20-1993]

This article shall apply, respectively, to every person, including but not limited to, every owner, lending institution, real estate broker and manager who, within the City, performs any function relating to or in connection with a real estate transaction, whether or not such person maintains an office or place of doing business within the City; provided, however, that the provisions of this article shall not be so construed as to prohibit a person on behalf of the owner from inquiring into and reporting upon the qualifications of any prospective buyer or tenant with respect to limitations or exclusions other than those of race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin.

Sec. 9-24. Powers and duties of commission.

[Ord. No. 863, § 10, 12-20-1993]

The Commission on Human Rights which was created by Ordinance 131 is hereby declared to remain the Commission on Human Rights and the appointments and terms of office of those currently named to the Commission as of the date of this article shall remain for the balance of their term as if Ordinance 131 had not been repealed and the Commission remaining as if originally constituted by the new ordinance.

It shall be the duty of the Commission, acting through its investigator, to receive and investigate complaints charging violations of this article, including, but not limited to, complaints charging discrimination, seek conciliation of such complaints, seek compliance by violators, hold hearings, and make finding of fact, determine awards, fines and penalties, and make recommendations in accordance with the provisions of this article.

The Commission shall have the power:

- (1) To administer and take sworn testimony.
- (2) To adopt, promulgate, amend and rescind rules and regulations of procedure consistent with the provisions of this article.
- (3) To subpoena witnesses and pertinent documents at both the investigation, conciliation and hearing stages, which power may be enforced by the Commission by proper petition to any court of competent jurisdiction.
- (4) To hold meetings through its Investigator which are closed to the public for the purpose of conciliating complaints.
- (5) To appoint attorneys with expertise in Fair Housing Law, from a list approved by the City Attorney and with the approval of the City Administrator, empowered to prosecute violations under this article and to otherwise act as would the City Attorney.

Sec. 9-25. Proceedings before commission.

[Ord. No. 863, § 11, 12-20-1993]

- (a) Proceedings under this article shall be commenced by the filing with the Commission of a written complaint, under oath or affirmation within one hundred eighty (180) days of the alleged violation. The complaint shall be in such detail as to substantially apprise any party properly concerned as to the time, place and facts surrounding the alleged violation. A complaint may be amended by right until an answer is filed, thereafter by leave of the Commission. The complaint may be filed by an aggrieved party.
- (b) After the complaint is filed, the Commission shall, within ten (10) working days, serve a copy of the complaint personally or by certified mail on the respondent.
- (c) If the Commission determines that the allegations as stated in the complaint, if true, would constitute a violation of this article, it shall cause an investigation of the complaint. The Commission shall conclude its investigation within thirty (30) days of filing of the complaint. If the Investigator is unable to conclude his investigation of the complaint within the thirty (30) days he shall notify the Chairman and the parties of the need to continue the investigation. Such notice shall not reveal any facts related to that investigation. Upon such notice the period for completion of the investigation shall be extended to sixty (60) days from the date of filing the complaint.
- (d) If the Investigator finds in his investigation that the allegations appear to be supported by the facts, he shall set a date for a conciliation conference and notify the parties of the time and place thereof. At such conference the Investigator shall interview the complainant and the person or persons against whom the complaint has been directed, and shall attempt to resolve the complaint by conciliation. The Commission shall establish rules and regulations governing the conciliation of complaints.
- (e) When there is a failure to settle or adjust any complaint through conciliation, the Investigator shall notify in writing the Chairman of the Commission and parties. The Commission, not later than thirty-five (35) days after such notification, shall set a date for a hearing on the complaint. The respondent shall file within thirty (30) days of such notification its' written response to the complaint. The hearing shall commence within sixty (60) days of the notification of a failure to settle or adjust the complaint. In order to encourage full and candid participation in the conciliation process, no record will be kept, and the parties and Investigator will be prohibited from later testifying, either at hearings under this Chapter or in court proceedings, with regard to what was said at the conciliation conference, and participants will sign an appropriate agreement to that effect before the conference begins. Under no circumstances will an investigator who participates in a conciliation conference have any later role in the same proceeding.
- (f) If the Investigator determines that a complaint is without merit, he shall dismiss the complaint. The Investigator shall, within five (5) days of such determination serve a copy of the Notice of Dismissal, and reasons therefor, personally or by certified mail on all parties and the Commission. The complainant may within fourteen (14) days of the receipt of Notice of Dismissal petition, in writing, the Commission and request a hearing on the complaint. The Commission, by majority vote(s), may withdraw the dismissal and refer the complaint to the Investigator for conciliation and/or hearing as necessary.
- (g) If, in the judgment of the Investigator after consultation with the Commission, immediate court action is necessary, he may at any time direct the City Attorney or outside counsel to file a complaint in any court of competent jurisdiction for a fine, injunction, or other appropriate relief. Such action may be taken even though administrative hearings of the complaint are pending before the Investigator or the Commission.

- (h) Hearings by the Commission shall be conducted by any three (3) or more members thereof; three (3) of whom shall thereafter attend all hearings on the complaint. At the conclusion of the hearings, a written report with findings of fact and a recommended decision shall be prepared for submission to the entire Commission. No report shall be delayed more than sixty (60) days after the date of the first hearing unless by agreement of the parties upon good cause shown. A majority of the hearing members must concur in the findings and recommendation. Only a Commission member in attendance at all hearings may vote on findings and recommendation. The findings of fact and recommended decision shall in all cases be advisory to the Commission. The Commission may review the complete record including but not limited to the transcripts, exhibits, briefs, the recommended findings and decision and then make a final decision on the complaint. However, to reach a decision, a majority of the Commission, then in office, must concur. The Commission shall reach its decision within sixty (60) days of receipt of the written report. Nothing shall preclude a complainant from withdrawing a complaint at any time after the filing.
- (i) All parties shall have the right to counsel at their own expense. All rules of procedure and regulations adopted by the Commission shall preserve the right of due process under the Missouri and United States Constitutions. A determination sustaining the complaint shall be by a preponderance of the evidence. The burden of proof shall be on the complainant.
- (j) The Commission shall be empowered at the conclusion of such proceedings, and as part of its final order, to direct that any person who shall have been found, as a result of such proceedings, to have violated this Chapter, to forthwith take any one or more of the following actions:
- (1) Comply with this Ordinance in respect of each violation found.
 - (2) Perform any contract or agreement previously made with or offered by or to the complainant for sale, lease, exchange, transfer, conveyance or assignment of the particular real property with respect to which a violation shall have been found.
 - (3) Reimburse the complainant for his actual and reasonable out-of-pocket expenses and costs necessarily incurred and to be incurred as a direct result of each violation found, the amount of which shall be specified by the Commission in its report and may include, but need not be limited to, reimbursement for expenses and costs for temporary living, moving and storage of household furnishings, additional expenditures relating to the lease or rental of real property necessarily obtained to provide alternative housing accommodations, additional expenditures resulting from failure or refusal to sublease or assign leased real property, and reasonable attorneys fees and disbursements.
 - (4) Pay a penalty as set forth in section **9-27** of this article.
 - (5) Comply with such other and further relief as may be deemed appropriate by the Commission for the enforcement of this article and the elimination of violations thereof.
- (k) The Commission may, by written order, serve upon the respondent at any time pending final order, an order that the particular real property with respect to which a violation of this article has been filed shall not be sold, leased, exchanged, transferred, conveyed or assigned to any person other than the complainant.

- (l) Any complainant or respondent may apply for and obtain judicial review of a final order of the Commission entered under this Ordinance in accordance with the provisions of the law.
- (m) The Commission may direct the City Attorney to file with the Division of Professional Registration of the State or any other regulatory or advisory agency a complaint against any real estate broker found guilty of violation any provision of this article.
- (n) The Commission may direct the City Attorney to commence action in any court of competent jurisdiction to recover the penalty provided herein, to seek such equitable relief as the Commission may deem proper or to enforce any order of the Commission.
- (o) If a respondent has been found guilty of a violation of this Ordinance, in accordance with the procedures specified herein, the determination of the nature and extent of the penalty shall be vested in a majority of the entire Commission then holding office. Nothing shall preclude the parties from consenting, with approval of the Commission, to an extension of any time period hereinabove set out.

Sec. 9-26. Private remedies.

[Ord. No. 863, § 12, 12-20-1993]

Any person aggrieved in any manner by the violation of this article who has exhausted the remedies provided in section **9-25** of this article, may apply to any court of competent jurisdiction for appropriate relief from such violation, including:

- (1) An order compelling compliance with this article.
- (2) An order to prohibit any person found by the court to have violated any provision of this article from the sale, lease, exchange, transfer, conveyance or assignment of any real property, by any person who in violation of this article refuses or fails to perform such contract.
- (3) Compensatory damages.
- (4) Such other and further relief as may seem appropriate to the court for the enforcement of this Ordinance and the elimination of violations thereof.
- (5) These remedies shall be available notwithstanding the imposition or lack of imposition of other penalties provided by this article.

Sec. 9-27. Penalty.

[Ord. No. 863, § 13, 12-20-1993]

Any person violating the provisions of this article shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each such offense. Every day a violation continues may be deemed a separate offense by appropriate finding.

BILL NO. 879

ORDINANCE NO. 863

AN ORDINANCE REPEALING ORDINANCE 765 OF THE CITY OF CHESTERFIELD AND CREATING A NEW ORDINANCE RELATED TO FAIR HOUSING IN THE CITY OF CHESTERFIELD.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Ordinance Number 765 of the City of Chesterfield is hereby repealed in its entirety one hundred eight (180) days after the passage and approval of this substituted Ordinance for those offenses that may have occurred up to and including the date of this Ordinance.

Section 2. Short Title. This Ordinance shall be known and may be cited as the "Fair Housing Ordinance of the City of Chesterfield".

Section 3. Purpose and Declaration of Policy. It is hereby declared to be the policy of the City and the purpose of this Ordinance, in the exercise of its police and regulatory powers for the protection of the public safety, for the health, morals, safety and welfare of the persons in and residing in the City, and for the maintenance and promotion of commerce, industry, and good government in the City, and to promote and protect fair housing opportunities throughout the City and to acknowledge the value of diversity within our community, to secure to all persons living and/or working, or desiring to live and/or work in the City of Chesterfield, an equal opportunity to view, purchase, lease, rent or occupy real estate without discrimination based on race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin.

Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 5. Definitions. For the purpose of this Ordinance:

INVESTIGATOR	An employee of the City or the Commission, designated by the City Administrator, with the approval of the Commission.
AGE CLASSIFICATION	Includes any person eighteen (18) years of age or older.
CHILD	Any person under the age of eighteen (18) who is a member of a family.

COMMISSION The Commission on Human Rights.

DISCRIMINATION or DISCRIMINATE To make distinction in treatment of any person because of race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin.

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LEASE or LEASING Includes and means rent, renting, assignment, sublease and subletting.

LENDING INSTITUTION Any bank, insurance company, savings and loan association, other person in the business of lending money or guaranteeing loans, any person in the business of obtaining, arranging, or negotiating loans or guarantees as agent or broker, and any person in the business of buying or selling loans or instruments for the payment of money which are secured by title to or a security interest in real estate.

MANAGER A person who as owner or agent of the owner or owners has the principal responsibility for the management of five (5) or more dwelling units for rent within the City and performs or employs others to perform the services associated with the letting and maintenance of said rental units.

OWNER Any person who holds legal or equitable title to, or owns any beneficial interest in, any real property or who holds legal or equitable title to shares of, or holds any beneficial interest in, any real estate cooperative which owns any real property or any person who is acting as the agent, manager or employee of the owner.

PERSON Includes one or more individuals, corporations, partnerships, associations, legal representatives, mutual companies, unincorporated organizations, trusts, trustees, trustees in bankruptcy, receivers and fiduciaries.

PURCHASE Includes any contract to purchase.

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SALE Includes any contract to sell, exchange or to convey, transfer or assign legal or equitable title to or a beneficial interest in real property.

STEERING To encourage or discourage the sale or rental of real property because of the race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin of persons in the neighborhood in which the property is located. This shall include but is not limited to directing persons into or away from areas because of race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin of persons in the area or purported to be moving into the area.

Section 6. Discrimination Prohibited. No person, including but not limited to, any owner, manager, lessee or sublessee of real property, real estate broker, lender, financial institution, advertiser, real estate appraiser, or agent of any of the foregoing, shall discriminate against any other person (or discriminate against such person because of the race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status) in regard to the sale or rental of or dealings concerning real property. Any such discrimination shall be unlawful. Without limiting the foregoing, it shall also be unlawful discrimination for any person to:

(a) **Policies and Publicity.** Advertise, publish, display or circulate or cause to be published, displayed, advertised or circulated, either in writing or orally, any notice, statement, communication, sign or advertisement, or to announce a policy, or to use any form of application for the

purchase, lease, rental, or financing of real property, or to make any record or inquiry in connection with the prospective purchase, rental or lease of real property, which expresses directly or indirectly any discrimination, or any intent to discriminate.

(b) Discriminate in Lending. Discriminate or to participate in discrimination in connection with borrowing or lending money, guaranteeing loans, accepting mortgages, or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repairs or maintenance of any real property in the City.

(c) Inducing Sales. Distribute or cause to be distributed written material or statements designed to induce any person to sell or lease real property because of the alleged or actual or because of any present or prospective change in the race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin of persons in the City or neighborhood.

(d) Misrepresentation. Make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any real property for the purpose of inducing or attempting to induce the sale or listing for sale of any real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status, or national origin in the area will or may result in lowering of real property values in the block, neighborhood or area in which the property is located.

(e) Refusal to Sell. Refuse to sell or rent real property because of race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin.

(f) Refusal to Show Records of Available Housing. Refuse to show to any person who has specified his needs, the list or other records identifying all real properties reasonably meeting such specifications.

(g) Withholding Housing. Represent to any person that any real property is not available, or otherwise to withhold real property from any person because of race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin.

(h) Refusal to Show Real Estate. Refuse to show real estate because of the race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin of any prospective purchaser, lessee

or tenant, or because of the race, color, religion, religious affiliation, sex, handicap, marital status, familial status or national origin of the residents in the area in which the property is located.

(i) Steering. Encourage or discourage the sale or rental or real property because of the race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin of persons in the neighborhood in which the property is located. This shall include but is not limited to directing persons into or away from areas because of race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin of persons in the area or purported to be moving into the area.

(j) Evasion. Employ any person as a salesman or agent as a means of evading provisions of this Ordinance.

(k) Providing Information. Volunteer oral or written information about the racial composition of a neighborhood unless such information is a factual, accurate and actual response to an unsolicited direct question.

(l) Information Regarding Complaints. Fail, within a reasonable time, to provide information requested by the person charged with enforcement of this Ordinance as a result of a complaint alleging a violation of this Ordinance.

(m) Rental Application. Discriminate by denying, or unreasonably delaying the processing of a lease or rental application of a person, discriminate in the fixing of the fee or length of processing time, or other terms and conditions of such application process.

(n) Listing Agreement. Entering into a listing agreement which discriminates against any person.

EXEMPTIONS: This Ordinance shall not:

(a) Bar any religious or denominational institution or organization, or any charitable or educational organization operated, supervised or controlled by or in connection with a religious organization, from limiting living accommodations, or giving preference with respect thereto, to persons of the same religion or denomination.

(b) Apply to the leasing of rooms to roomers in a dwelling unit occupied by the owner or lessee of the entire premises as a family household having not more than two (2) roomers exclusive of salaried household employees living on premises.

(c) Prohibit the operation of housing units designed and offered predominantly for use and occupancy by persons over the age of sixty two (62).

(d) Bar any charitable or educational organization from limiting to persons of the same sex the rental of living accommodations in facilities primarily providing single room occupancy.

(e) Include an individual whose only connection with the discrimination is his association with a group or entity which owns, manages, brokers, loans, advertises, or appraises the real property, unless that individual was involved in the discrimination personally.

Section 7. Discrimination in Lending. It shall be unlawful and a violation of this Ordinance for any lending institution to discriminate in making, agreeing to make, arranging or negotiating any loan or guarantee of funds for the purpose of financing the purchase or sale, construction, lease, rehabilitation, improvement, renovation, or repair of any real estate property, or to offer, seek or agree to terms, conditions or privileges that discriminate.

Section 8. Refusal to Deal in Lending. It shall be unlawful and a violation of this Ordinance for any lending institution to refuse to negotiate for, enter into, or perform any agreement to lend or guarantee the loan of funds for the purchase, sale, construction, lease, rehabilitation, improvement, renovation, or repair of any real property because of discrimination.

Section 9. Coverage. This Ordinance shall apply, respectively, to every person, including but not limited to, every owner, lending institution, real estate broker and manager who, within the City, performs any function relating to or in connection with a real estate transaction, whether or not such person maintains an office or place of doing business within the City; provided, however, that the provisions of this Ordinance shall not be so construed as to prohibit a person on behalf of the owner from inquiring into and reporting upon the qualifications of any prospective buyer or tenant with respect to limitations or exclusions other than those of race, color, religion, religious affiliation, sex, age, handicap, marital status, familial status or national origin.

Section 10. Powers and Duties of Commission. The Commission on Human Rights which was created by Ordinance 131 is hereby declared to remain the Commission on Human Rights and the appointments and terms of office of those currently named to the Commission as of the date of this Ordinance shall remain for the balance of their term as if Ordinance 131 had not been repealed and the Commission remaining as if originally constituted by the new Ordinance.

It shall be the duty of the Commission, acting through its investigator, to receive and investigate complaints charging violations of this Ordinance, including, but not limited to, complaints charging discrimination, seek conciliation of such complaints, seek compliance by violators, hold hearings, and make finding of fact, determine awards, fines and penalties, and make recommendations in accordance with the provisions of this Ordinance.

The Commission shall have the power:

- (a) To administer and take sworn testimony.
- (b) To adopt, promulgate, amend and rescind rules and regulations of procedure consistent with the provisions of this Ordinance.
- (c) To subpoena witnesses and pertinent documents at both the investigation, conciliation and hearing stages, which power may be enforced by the Commission by proper petition to any court of competent jurisdiction.
- (d) To hold meetings through its Investigator which are closed to the public for the purpose of conciliating complaints.
- (e) To appoint attorneys with expertise in Fair Housing law, from a list approved by the City Attorney and with the approval of the City Administrator, empowered to prosecute violations under this Ordinance and to otherwise act as would the City Attorney.

Section 11. Proceedings Before Commission.

(a) Proceedings under this Ordinance shall be commenced by the filing with the Commission of a written complaint, under oath or affirmation within one hundred eighty (180) days of the alleged violation. The complaint shall be in such detail as to substantially apprise any party property concerned as to the time, place and facts surrounding the alleged violation. A complaint may be amended by right until an answer is filed, thereafter by leave of the Commission. The complaint may be filed by an aggrieved party.

(b) After the complaint is filed, the Commission shall, within ten (10) working days, serve a copy of the complaint personally or by certified mail on the respondent.

(c) If the Commission determines that the allegations as stated in the complaint, if true, would constitute a violation of this Ordinance, it shall cause an investigation of the complaint. The Commission shall conclude its investigation

within thirty (30) days of filing of the complaint. If the Investigator is unable to conclude his investigation of the complaint within the thirty (30) days he shall notify the Chairman and the parties of the need to continue the investigation. Such notice shall not reveal any facts related to that investigation. Upon such notice the period for completion of the investigation shall be extended to sixty (60) days from the date of filing the complaint.

(d) If the Investigator finds in his investigation that the allegations appear to be supported by the facts, he shall set a date for a conciliation conference and notify the parties of the time and place thereof. At such conference the Investigator shall interview the complainant and the person or persons against whom the complaint has been directed, and shall attempt to resolve the complaint by conciliation. The Commission shall establish rules and regulations governing the conciliation of complaints.

(e) When there is a failure to settle or adjust any complaint through conciliation, the Investigator shall notify in writing the Chairman of the Commission and parties. The Commission, not later than thirty five (35) days after such notification, shall set a date for a hearing on the complaint. The respondent shall file within thirty (30) days of such notification its' written response to the complaint. The hearing shall commence within sixty (60) days of the notification of a failure to settle or adjust the complaint. In order to encourage full and candid participation in the conciliation process, no record will be kept, and the parties and Investigator will be prohibited from later testifying, either at hearings under this Chapter or in court proceedings, with regard to what was said at the conciliation conference, and participants will sign an appropriate agreement to that effect before the conference begins. Under no circumstances will an investigator who participates in a conciliation conference have any later role in the same proceeding.

(f) If the Investigator determines that a complaint is without merit, he shall dismiss the complaint. The Investigator shall, within five (5) days of such determination serve a copy of the Notice of Dismissal, and reasons therefor, personally or by certified mail on all parties and the Commission. The complainant may within fourteen (14) days of the receipt of Notice of Dismissal petition, in writing, the Commission and request a hearing on the complaint. The Commission, by majority vote(s), may withdraw the dismissal and refer the complaint to the Investigator for conciliation and/or hearing as necessary.

(g) If, in the judgment of the Investigator after consultation with the Commission, immediate court action is

necessary, he may at any time direct the City Attorney or outside counsel to file a complaint in any court of competent jurisdiction for a fine, injunction, or other appropriate relief. Such action may be taken even though administrative hearings of the complaint are pending before the Investigator or the Commission.

(h) Hearings by the Commission shall be conducted by any three (3) or more members thereof; three (3) of whom shall thereafter attend all hearings on the complaint. At the conclusion of the hearings, a written report with findings of fact and a recommended decision shall be prepared for submission to the entire Commission. No report shall be delayed more than sixty (60) days after the date of the first hearing unless by agreement of the parties upon good cause shown. A majority of the hearing members must concur in the findings and recommendation. Only a Commission member in attendance at all hearings may vote on findings and recommendation. The findings of fact and recommended decision shall in all cases be advisory to the Commission. The Commission may review the complete record including but not limited to the transcripts, exhibits, briefs, the recommended findings and decision and then make a final decision on the complaint. However, to reach a decision, a majority of the Commission, then in office, must concur. The Commission shall reach its decision within sixty (60) days of receipt of the written report. Nothing shall preclude a complainant from withdrawing a complaint at any time after the filing.

(i) All parties shall have the right to counsel at their own expense. All rules of procedure and regulations adopted by the Commission shall preserve the right of due process under the Missouri and United States Constitutions. A determination sustaining the complaint shall be by a preponderance of the evidence. The burden of proof shall be on the complainant.

(j) The Commission shall be empowered at the conclusion of such proceedings, and as part of its final order, to direct that any person who shall have been found, as a result of such proceedings, to have violated this Chapter, to forthwith take any one or more of the following actions:

1. Comply with this Ordinance in respect of each violation found.
2. Perform any contract or agreement previously made with or offered by or to the complainant for sale, lease, exchange, transfer, conveyance or assignment of the particular real property with respect to which a violation shall have been found.

3. Reimburse the complainant for his actual and reasonable out-of-pocket expenses and costs necessarily incurred and to be incurred as a direct result of each violation found, the amount of which shall be specified by the Commission in its report and may include, but need to be limited to, reimbursement for expenses and costs for temporary living, moving and storage of household furnishings, additional expenditures relating to the lease or rental of real property necessarily obtained to provide alternative housing accommodations, additional expenditures resulting from failure or refusal to sublease or assign leased real property, and reasonable attorneys fees and disbursements.

4. Pay a penalty as set forth in Section 13 of this Ordinance.

5. Comply with such other and further relief as may be deemed appropriate by the Commission for the enforcement of this Ordinance and the elimination of violations thereof.

(k) The Commission may, by written order, serve upon the respondent at any time pending final order, an order that the particular real property with respect to which a violation of this Ordinance has been filed shall not be sold, leased, exchanged, transferred, conveyed or assigned to any person other than the complainant.

(l) Any complainant or respondent may apply for and obtain judicial review of a final order of the Commission entered under this Ordinance in accordance with the provisions of the law.

(m) The Commission may direct the City Attorney to file with the Division of Professional Registration of the State or any other regulatory or advisory agency a complaint against any real estate broker found guilty of violation any provision of this Ordinance.

(n) The Commission may direct the City Attorney to commence action in any court of competent jurisdiction to recover the penalty provided herein, to seek such equitable relief as the Commission may deem proper or to enforce any order of the Commission.

(o) If a respondent has been found guilty of a violation of this Ordinance, in accordance with the procedures specified herein, the determination of the nature and extent of the penalty shall be vested in a majority of the entire Commission

then holding office. Nothing shall preclude the parties from consenting, with approval of the Commission, to an extension of any time period hereinabove set out.

Section 12. Private Remedies. Any person aggrieved in any manner by the violation of this Ordinance who has exhausted the remedies provided in Section 11 of this Ordinance, may apply to any court of competent jurisdiction for appropriate relief from such violation, including:

(a) An order compelling compliance with this Ordinance.

(b) An order to prohibit any person found by the court to have violated any provision of this Ordinance from the sale, lease, exchange, transfer, conveyance or assignment of any real property, by any person who in violation of this Ordinance refuses or fails to perform such contract.

(c) Compensatory damages.

(d) Such other and further relief as may seem appropriate to the court for the enforcement of this Ordinance and the elimination of violations thereof.

(e) These remedies shall be available notwithstanding the imposition or lack of imposition of other penalties provided by this Ordinance.

Section 13. Penalty. Any person violating the provisions of this Ordinance shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each such offense. Every day a violation continues may be deemed a separate offense by appropriate finding.

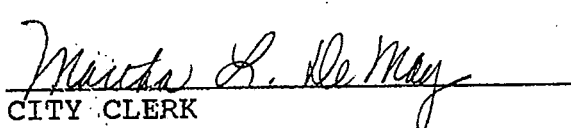
Section 14. This Ordinance shall be in full force and effect after its passage and approval and shall be codified as an act of the City of Chesterfield.

Passed and approved this 20TH day of DECEMBER, 1993.



MAYOR

ATTEST:



CITY CLERK

BILL NO. 770

ORDINANCE NO. 765

AN ORDINANCE REPEALING ORDINANCE 131 OF THE CITY OF CHESTERFIELD AND CREATING A NEW ORDINANCE RELATED TO FAIR HOUSING IN THE CITY OF CHESTERFIELD.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Ordinance Number 131 of the City of Chesterfield is hereby repealed in its entirety one hundred eight (180) days after the passage and approval of this substituted Ordinance for those offenses that may have occurred up to and including the date of this Ordinance.

Section 2. Short Title. This Ordinance shall be known and may be cited as the "Fair Housing Ordinance of the City of Chesterfield".

Section 3. Purpose and Declaration of Policy. It is hereby declared to be the policy of the City and the purpose of this Ordinance, in the exercise of its police and regulatory powers for the protection of the public safety, for the health, morals, safety and welfare of the persons in and residing in the City, and for the maintenance and promotion of commerce, industry, and good government in the City, and to promote and protect fair housing opportunities throughout the City and to acknowledge the value of diversity within our community, to secure to all persons living and/or working, or desiring to live and/or work in the City of Chesterfield, an equal opportunity to view, purchase, lease, rent or occupy real estate without discrimination based on race, color, religion, sex, age, handicap, marital status or national origin.

Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 5. Definitions. For the purpose of this Ordinance:

INVESTIGATOR An employee of the City or the Commission, designated by the City Administrator, with the approval of the Commission.

AGE CLASSIFICATION Includes any person eighteen (18) years of age or older.

CHILD Any person under the age of eighteen (18) who is a member of a family.

COMMISSION The Commission on Human Rights.

DISCRIMINATION or DISCRIMINATE To make distinction in treatment of any person because of race, color, religion, sex, age, handicap, marital status or national origin.

DWELLING UNIT A room or group of rooms designed for occupancy by one family with eating, sleeping and living facilities or lodging rooms.

LEASE or LEASING Includes and means rent, renting, assignment, sublease and subletting.

LENDING INSTITUTION Any bank, insurance company, savings and loan association, other person in the business of lending money or guaranteeing loans, any person in the business of obtaining, arranging, or negotiating loans or guarantees as agent or broker, and any person in the business of buying or selling loans or instruments for the payment of money which are secured by title to or a security interest in real estate.

MANAGER A person who as owner or agent of the owner or owners has the principal responsibility for the management of five (5) or more dwelling units for rent within the City and performs or employs others to perform the services associated with the letting and maintenance of said rental units.

OWNER Any person who holds legal or equitable title to, or owns any beneficial interest in, any real property or who holds legal or equitable title to shares of, or holds any beneficial interest in, any real estate cooperative which owns any real property or any person who is acting as the agent, manager or employee of the owner.

PERSON Includes one or more individuals, corporations, partnerships, associations, legal representatives, mutual companies, unincorporated organizations, trusts,

trustees, trustees in bankruptcy, receivers and fiduciaries.

- PURCHASE** Includes any contract to purchase.
- REAL ESTATE BROKER** Any person licensed as a real estate broker in accordance with the provisions of Chapter 339, RSMo. or required thereby to be so licensed.
- REAL ESTATE TRANSACTION** The purchase, sale, exchange or lease of any real property and an option to do any of the foregoing.
- REAL PROPERTY** Any real estate improved or unimproved, within the City limits, including rooming units.
- SALE** Includes any contract to sell, exchange or to convey, transfer or assign legal or equitable title to or a beneficial interest in real property.
- STEERING** To encourage or discourage the sale or rental of real property because of the race, color religion, sex, age, handicap, marital status or national origin of persons in the neighborhood in which the property is located. This shall include but is not limited to directing persons into or away from areas because of race, color, religion, sex, age, handicap, marital status or national origin of persons in the area or purported to be moving into the area.

Section 6. Discrimination Prohibited. No person, including but not limited to, any owner, manager, lessee or sublessee of real property, real estate broker, lender, financial institution, advertiser, real estate appraiser, or agent of any of the foregoing, shall discriminate against any other person (or discriminate against such person because of the race, color, religion, sex, age, handicap, marital status) in regard to the sale or rental of or dealings concerning real property. Any such discrimination shall be unlawful. Without limiting the foregoing, it shall also be unlawful discrimination for any person to:

(a) Policies and Publicity. Advertise, publish, display or circulate or cause to be published, displayed, advertised or circulated, either in writing or orally, any notice, statement, communication, sign or advertisement, or to announce a policy, or to use any form of application for the purchase, lease, rental, or financing of real property, or to make any record or inquiry in connection with the prospective purchase, rental or lease of real property, which expresses directly or indirectly any discrimination, or any intent to discriminate.

(b) Discriminate in Lending. Discriminate or to participate in discrimination in connection with borrowing or lending money, guaranteeing loans, accepting mortgages, or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repairs or maintenance of any real property in the City.

(c) Inducing Sales. Distribute or cause to be distributed written material or statements designed to include any person to sell or lease real property because of the alleged or actual or because of any present or prospective change in the race, color, religion, sex, age, handicap, marital status or national origin of persons in the City or neighborhood.

(d) Misrepresentation. Make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any real property for the purpose of inducing or attempting to induce the sale or listing for sale of any real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, sex, age, handicap, marital status, or national origin in the area will or may result in lowering of real property values in the block, neighborhood or area in which the property is located.

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(k) Providing Information. Volunteer oral or written information about the racial composition of a neighborhood unless such information is a factual, accurate and actual response to an unsolicited direct question.

(l) Information Regarding Complaints. Fail, within a reasonable time, to provide information requested by the person charged with enforcement of this Ordinance as a result of a complaint alleging a violation of this Ordinance.

(m) Rental Application. Discriminate by denying, or unreasonably delaying the processing of, a lease or rental application of a person, discriminate in the fixing of the fee or length of processing time, or other terms and conditions of such application process.

(n) Listing Agreement. Entering into a listing agreement which discriminates against any person.

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(c) Prohibit the operation of housing units designed and offered predominantly for use and occupancy by persons over the age of sixty two (62).

(d) Bar any charitable or educational organization from limiting to persons of the same sex the rental of living accommodations in facilities primarily providing single room occupancy.

(e) Include an individual whose only connection with the discrimination is his association with a group or entity which owns, manages, brokers, loans, advertises, or appraises the real property, unless that individual was involved in the discrimination personally.

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Section 9. Coverage. This Ordinance shall apply, respectively, to every person, including but not limited to, every owner, lending institution, real estate broker and manager who, within the City, performs any function relating to or in connection with a real estate transaction, whether or not such person maintains an office or place of doing business within the City; provided, however, that the provisions of this Ordinance shall not be so construed as to prohibit a person on behalf of the owner from inquiring into and reporting upon the qualifications of any prospective buyer or tenant with respect to limitations or exclusions other than those of race, color, religion, sex, age, handicap, marital status or national origin.

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The Commission on Human Rights which was created by Ordinance 131 is hereby declared to remain the Commission on Human Rights and the appointments and terms of office of those currently named to the Commission as of the date of this Ordinance shall remain for the balance of their term as if Ordinance 131 had not been repealed

and the Commission remaining as if originally constituted by the new Ordinance.

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The Commission shall have the power:

(a) To administer and take sworn testimony.

(b) To adopt, promulgate, amend and rescind rules and regulations of procedure consistent with the provisions of this Ordinance.

(c) To subpoena witnesses and pertinent documents at both the investigation, conciliation and hearing stages, which power may be enforced by the Commission by proper petition to any court of competent jurisdiction.

(d) To hold meetings through its Investigator which are closed to the public for the purpose of conciliating complaints.

(e) To appoint attorneys with expertise in Fair Housing law, from a list approved by the City Attorney and with the approval of the City Administrator, empowered to prosecute violations under this Ordinance and to otherwise act as would the City Attorney.

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(b) After the complaint is filed, the Commission shall, within ten (10) working days, serve a copy of the complaint personally or by certified mail on the respondent.

(c) If the Commission determines that the allegations as stated in the complaint, if true, would constitute a violation of this Ordinance, it shall cause an investigation of the complaint. The Commission shall conclude its investigation within thirty (30) days of filing of the complaint. If the investigator is unable to conclude his investigation of the complaint within the thirty (30) days he shall notify the chairman and the parties of the need to continue the investigation. Such notice shall not reveal any facts related to that investigation. Upon such notice the period for completion of the investigation shall be extended to sixty (60) days from the date of filing the complaint.

(d) If the investigator finds in his investigation that the allegations appear to be supported by the facts found by him, he shall set a date for a conciliation conference and notify the parties of the time and place thereof. At such conference the investigator shall interview the complainant and the person or persons against whom the complaint has been directed, and shall attempt to resolve the complaint by conciliation. The Commission shall establish rules and regulations governing the conciliation of complaints.

(e) When there is a failure to settle or adjust any complaint through conciliation, the investigator shall notify in writing the chairman of the Commission and parties. The Commission, not later than thirty five (35) days after such notification, shall set a date for a hearing on the complaint. The respondent shall file within thirty (30) days of such notification its written response to the complaint. The hearing shall commence within sixty (60) days of the notification of a failure to settle or adjust the complaint. In order to encourage full and candid participation in the conciliation process, no record will be kept, and the parties and Investigator will be prohibited from later testifying, either at hearings under this Chapter or in court proceedings, with regard to what was said at the conciliation conference, and participants will sign an appropriate agreement to that effect before the conference begins. Under no circumstances will an Investigator who participates in a conciliation conference have any later role in the same proceeding.

(f) If the Investigator determines that a complaint is without merit, he shall dismiss the complaint. The Investigator shall, within five (5) days of such determination serve a copy of the Notice of Dismissal, and reasons therefor, personally or by certified mail on all parties and the Commission. The complainant may within fourteen (14) days of the receipt of Notice of Dismissal petition in writing the Commission and request a hearing on the complaint. The Commission, by majority vote(s), may withdraw the dismissal

and refer the complaint to the Investigator for conciliation and/or hearing as necessary.

(g) If, in the judgment of the Investigator after consultation with the Commission, immediate court action is necessary, he may at any time direct the City Attorney or outside counsel to file a complaint in any court of competent jurisdiction for a fine, injunction, or other appropriate relief. Such action may be taken even though administrative hearings of the complaint are pending before the Investigator or the Commission.

(h) Hearings by the Commission shall be conducted by any three (3) or more members thereof, three (3) of whom shall thereafter attend all hearing on the complaint. At the conclusion of the hearings, a written report with findings of fact and a recommended decision shall be prepared for submission to the entire Commission. No report shall be delayed more than sixty (60) days after the date of the first hearing unless by agreement of the parties upon good cause shown. A majority of the hearing members must concur in the findings and recommendation. Only a Commission member in attendance at all hearings may vote on findings and recommendation. The findings of fact and recommended decision shall in all cases be advisory to the Commission. The Commission may review the complete record including but not limited to the transcripts, exhibits, briefs, the recommended findings and decision and then make a final decision on the complaint. However, to reach a decision, a majority of the Commission then in office must concur. The Commission shall reach its decision within sixty (60) days of receipt of the written report. Nothing shall preclude a complainant from withdrawing a complaint at any time after the filing.

(i) All parties shall have the right to counsel at their own expense. All rules of procedure and regulations adopted by the Commission shall preserve the right of due process under the Missouri and United States Constitutions. A determination sustaining the complaint shall be by a preponderance of the evidence. The burden of proof shall be on the complainant.

(j) The Commission shall be empowered at the conclusion of such proceedings, and as part of its final order, to direct that any person who shall have been found, as a result of such proceedings, to have violated this Chapter, to forthwith take any one or more of the following actions:

1. Comply with this Ordinance in respect of each violation found.

2. Perform any contract or agreement previously made with or offered by or to the complainant for sale, lease, exchange, transfer, conveyance or assignment of the particular real property with respect to which a violation shall have been found.

3. Reimburse the complainant for his actual and reasonable out-of-pocket expenses and costs necessarily incurred and to be incurred as a direct result of each violation found, the amount of which shall be specified by the commission in its report and may include, but need to be limited to, reimbursement for expenses and costs for temporary living, moving and storage of household furnishings, additional expenditures relating to the lease or rental of real property necessarily obtained to provide alternative housing accommodations, additional expenditures resulting from failure or refusal to sublease or assign leased real property, and reasonable attorney's fees and disbursements.

4. Pay a penalty as set forth in Section 13 of this Ordinance.

5. Comply with such other and further relief as may be deemed appropriate by the Commission for the enforcement of this Ordinance and the elimination of violations thereof.

(k) The Commission may, by written order serve upon the respondent at any time pending final order, an order that the particular real property with respect to which a violation of this Ordinance has been filed shall not be sold, leased, exchanged, transferred, conveyed or assigned to any person other than the complainant.

(l) Any complainant or respondent may apply for and obtain judicial review of a final order of the Commission entered under this Ordinance in accordance with the provisions of the law.

(m) The Commission may direct the City Attorney to file with the Division of Professional Registration of the State or any other regulatory or advisory agency a complaint against any real estate broker found guilty of violation any provision of this Ordinance.

(n) The Commission may direct the City Attorney to commence action in any court of competent jurisdiction to recover the penalty provided herein, to seek such equitable relief as the Commission may deem proper or to enforce any order of the Commission.

(o) If a respondent has been found guilty of a violation of this Ordinance, in accordance with the procedures specified herein, the determination of the nature and extent of the penalty shall be vested in a majority of the entire Commission then holding office. Nothing shall preclude the parties from consenting with approval of the commission to extension of any time period hereinabove set out.

Section 12. Private Remedies. Any person aggrieved in any manner by the violation of this Ordinance who has exhausted the remedies provided in Section 11 of this Ordinance, may apply to any court of competent jurisdiction for appropriate relief from such violation, including:

(a) An order compelling compliance with this Ordinance.

(b) An order to prohibit any person found by the court to have violated any provision of this Ordinance from the sale, lease, exchange, transfer, conveyance or assignment of any real property, by any person who in violation of this Ordinance refuses or fails to perform such contract.

(c) Compensatory damages.

(d) Such other and further relief as may seem appropriate to the court for the enforcement of this Ordinance and the elimination of violations thereof.

(e) These remedies shall be available notwithstanding the imposition or lack of imposition of other penalties provided by this Ordinance.

Section 13. Penalty. Any person violating the provisions of this Ordinance shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each such offense. Every day a violation continues may be deemed a separate offense by appropriate finding.

Section 14. This Ordinance shall be in full force and effect after its passage and approval and shall be codified as an act of the City of Chesterfield.

Passed and approved this 1ST day of MARCH, 1993.

Jack L. Linn
MAYOR

ATTEST:

Marta L. DeMay
CITY CLERK

AN ORDINANCE FOR A FAIR HOUSING CODE, PROHIBITING THE DISCRIMINATION IN THE SALE OR RENTAL OF CERTAIN DWELLINGS AND PROVIDING FOR THE ESTABLISHMENT OF A COMMISSION ON HUMAN RIGHTS, CONTAINING PROVISIONS FOR ENFORCEMENT AND PROVIDING FOR PENALTIES IN CASE OF VIOLATIONS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, AS FOLLOWS:

Section 1. Discrimination in the Sale or Rental of Housing. It shall be unlawful for any owner, real estate broker, salesman, or lending institution, either by themselves or through their officers, employees, agents or salesmen, or for any other person:

- (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale of, or otherwise make unavailable or deny a dwelling to any person because of race, sex, color, religion, national origin, age, ancestry, handicap or marital status;
- (2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, sex, color, religion, national origin, age, ancestry, handicap, or marital 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 or discrimination based on race, sex, color, religion, national origin, age, ancestry, handicap, or marital status, or an intention to make any such preference, limitation or discrimination;
- (4) To present to any person because of race, sex, color, religion, national origin, age, ancestry, handicap or marital status or that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;
- (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons

of a particular race, sex, color, religion, national origin, age, ancestry, handicap or marital status.

Section 2. Discrimination in the Sale or Rental of Housing, Exemptions. Nothing in this Code shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, sex, color, national origin, age, ancestry, handicap, or marital status. Nor shall anything in this Code 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 lodging to its members or from giving preference to its members.

Section 3. Discrimination in the Financing of Housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor 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 race, sex, color, religion, national origin, age, ancestry, handicap, or marital status of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

Section 4. Discrimination in the Provision of Brokerage Services. It shall be unlawful for any person to deny any person access to or membership or participation in any multiple-listing service, real estate broker's 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, sex, color, religion, national origin, age, ancestry, handicap or marital status.

Section 5. Solicitation-Sale of Rental or Dwellings-Unlawful. 1. It shall be unlawful for any real estate corporation, partnership, firm or association, or for any person acting as a real estate agent, salesman, or broker, or for any agent, employee or person acting on their behalf to solicit or

induce or attempt to solicit or induce in any manner or by any means, including but not limited to the use of the mails, telegraph, letters, flyers, leaflets, circulars, telephone, door-to-door solicitation or any other type of written or oral personal contact, any person having any interest in a dwelling, including occupant, to sell, lease, rent, move from or otherwise dispose of or change his interest in said dwelling.

2. Section 5.1 shall not be applicable to:

- (a) Any solicitation or attempted solicitation to sell, lease, rent, move from, or otherwise dispose of or change interest in any vacant land;
- (b) Any solicitation or attempted solicitation to sell, lease, rent, move from or otherwise dispose of or change interest in any dwelling, said solicitation or attempted solicitation being publicly broadcast on television or radio or placed in a newspaper or magazine of general distribution;
- (c) Any solicitation or attempted solicitation to sell, lease, rent, move from or otherwise dispose of or change interest in any dwelling or other property for the purpose of acquiring tracts of real property for the purpose of residential, commercial, industrial or recreational development;
- (d) Any solicitation or attempted solicitation to sell, lease rent, move from or otherwise dispose of or change interest in any dwelling or other property whose owner or occupant has listed or advertised such property for sale or rent.

3. The complaint procedures set forth in Sections 5 and 7 shall not be applicable to enforcement of the provisions of Section 5.1. Any persons who claim to have been injured under Section 5.1. shall file a written complaint directly with the City Council and the City Attorney.

Section 6. Steering-Sale or Rental of Dwellings-Unlawful. 1. It shall be unlawful for any real estate corporation, partnership, firm or association or for any person acting as a real estate agent, salesman or broker, or for any agent, employee or person acting in their behalf to:

- (a) Influence or attempt to influence any person who represents himself to be a prospective purchaser, occupant, or tenant of a dwelling to refrain from purchasing or renting a dwelling by referring to race, sex, color, religion, national origin, age,

ancestry, handicap or marital status of occupants or prospective occupants of other dwellings in that neighborhood;

- (b) Discriminate against any person who represents himself to be a prospective seller, purchaser, occupant, landlord or tenant of a dwelling by any influence, suggestion, act or failure to act, or accord any differential treatment among such persons, in connection with the sale or rental of a dwelling or in the furnishing of information, services, or facilities relative thereto, because of race, sex, color, religion, national origin, age, ancestry, handicap or marital status of any person.

2. The complaint procedure set forth in Sections 2 and 7 shall not be applicable to enforcement of the provisions of Section 6.1. Any persons who claim to have been injured under Section 6.1 shall file a written complaint directly with the City Council and City Attorney.

Section 7. Commission on Human Rights. There is hereby created a Commission on Human Rights whose duty it will be to receive and investigation any and all written complaints charging discrimination, seek conciliation of such complaint, hold hearings, make findings of fact and issue recommendations to the City Council and the City Attorney. The City Council shall review and make recommendations including the decision to prosecute or to instruct the City Attorney to file a civil suit to enjoin the violation or to take other appropriate action. The Commission shall administer this Code in a manner affirmatively to further the policies of this Code and to prevent or eliminate discriminatory housing practices. The Commission shall cooperate with and render technical assistance to Federal, State, local and other public or private agencies organizations and institutions which are formulating or carrying out programs to prevent or eliminate discriminating housing practices.

Section 8. Appointments. The Commission on Human Rights shall consist of three (3) members who shall be appointed by the Mayor with the approval of the City Council. Each member shall serve for three (3) years, provided, however, that the first appointment shall be for one, two and three years for each member respectively. The members shall be residents of the City of Chesterfield, registered voters in the said City and at least twenty-one (21) years of age. The Chairman shall be elected by the members of the committee.

Section 9. Complaint Process. Any persons who claim to have been injured or who will be injured by a discriminatory housing practice may file a complaint with the Human Rights Commission. The complaint shall be filed within one hundred eighty (180) days after the alleged discriminatory housing practice occurred. For purposes of this Section, all days of

violation with respect to one dwelling shall be taken to mean one occurrence. Complaints shall be in writing and shall state the facts upon which the allegations of the discriminatory practice are based. Upon receipt of such complaint, a copy shall be furnished to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice.

Section 10. Penalty. Any person, firm or corporation violating any of the provisions of this Ordinance shall be punished by a fine not to exceed One Hundred Dollars (\$100.00) or by imprisonment not to exceed ninety (90) days or by both fine and imprisonment. Each day a violation exists it shall be considered a separate offense.

Section 11. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 18th day of JULY, 1988.

Judith M. Steinbach
MAYOR

ATTEST:

Jane W. Schaefer

The above is a true and certified copy of Ordinance No. 131 as passed and approved by the City of Chesterfield, Missouri.

City of Chesterfield, Missouri.