

TITLE XIII

FAIR HOUSING

CHAPTER 13.01

GENERAL PROVISIONS

13.0101 Short Title

This ordinance shall be know and may be cited as the FAIR HOUSING ORDINANCE of the City of Springfield, South Dakota.

13.0102 Purpose and Declarations

It is hereby declared to be the policy of the City of Springfield and the purpose of this ordinance, in the exercise of said City, of its policy and regulatory powers for the protection of the public and good government in said City to secure all persons living and/or working or desiring to live and/or work in said City, fair opportunity to purchase, lease, rent, or occupy real estate without discrimination based on race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, or national origin.

13.0103 Construction

This ordinance shall be construed according to the fair import of its terms and shall be liberally construed to further the purpose and policy stated in Section 13.0102 and the special purposes of the particular provision involved.

13.0104 Definitions for the Purpose of this Ordinance

- (a) "Real Property" means any real estate, vacant land, building, or structure, or any part thereof, within the city limits.
- (b) "Board" means the Fair Housing Board
- (c) "Panel" means a panel comprised of three or more members of the board, designated by the Chairman of the Board, to investigate and attempt to conciliate a complaint filed or made under Chapter 13.05 of this ordinance.
- (d) "Lease" includes sublease, assignment, and rental; and includes any contract to do any of the foregoing.
- (e) "National Origin" includes the national origin of an ancestor.
- (f) "Owner" means any person who holds legal or equitable title to, owns any beneficial interest in any real property, or who holds legal or equitable title to shares of, or who holds any beneficial interest in any real estate cooperative which owns any real estate cooperative which owns any real property.

- (g) “Person” includes one or more individuals, corporations, partnerships, associations, legal representatives, mutual companies, unincorporated organizations, trusts, trustees, trustees in bankruptcy, receivers, and fiduciaries.
- (h) “Purchase” includes any contract to purchase. “Sale” includes any contract to sell, exchange, or to convey, transfer, assign legal or equitable title to or a beneficial interest in real property.
- (i) “Real Estate Broker” means any person licensed as a real estate broker in accordance with the licensing requirements of the State of South Dakota, or required thereby to be so licensed. “Real Estate Agent” means any real estate salesperson, and any other person who, as employee or agent or otherwise, engages in the management or operation of any real property.
- (j) “Real Estate Transaction” means the purchase, sale, exchange, rental, or lease of any real property, or an option to do any of the foregoing.
- (k) “Lending Institution” means any bank, insurance company, savings and loan association, or any other person in the business of lending money or guaranteeing loans, any person 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 be security interest in real estate.
- (l) “Age” means chronological age.
- (m) “Education Association” means the fact of being enrolled or not being enrolled at any educational institution.
- (n) “Family Responsibilities” means the state of being or the potential to become a contributor to the support of an individual or individuals in a dependent relationship.
- (o) “Physical Limitation” means a limitation in physical capabilities unrelated to one’s ability to safely perform the work involved in jobs or positions available to such person for hire or promotion or a limitation of physical capabilities unrelated to one’s ability to acquire, rent, and maintain property. “Physical Limitation” includes, but is not limited to, blindness or partial sightedness, deafness, or hearing impairment, muteness, partial or total absence of physical member, speech impairment and motor impairment.
- (p) “Marital Status” means the state of being married, unmarried, divorced, or widowed.
- (q) “Source of Income” means any legal source from which a person obtains money.

TITLE XIII

CHAPTER 13.02

DISCRIMINATORY TERMS, REFUSALS OF NEGOTIATION AND OFFERS, WITHHOLDING, WRONGFUL ADVERTISING AND NOTICES

13.0201 Discriminatory Terms

It shall be an unlawful housing practice and a violation of this ordinance for any real estate broker, salesperson, agent, owner, or other person to sell or rent, or offer to sell or rent real property on terms, conditions, or privileges that discriminate between persons because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, or national origin.

13.0202 Refusal to Negotiate

It shall be an unlawful real estate practice and a violation of this ordinance for any real estate broker, salesperson, agent, owner, or other person to represent to any person that any real property is not available, or otherwise hold real property from any person because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, or national origin.

13.0203 Withholding Housing

It shall be an unlawful real estate practice and a violation of this ordinance for any real estate broker, salesperson, agent, owner, or other person to represent to any person that any real property is not available, or otherwise hold real property from any person because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, or national origin.

13.0204 Advertisement, Signs, and Notices

It shall be an unlawful real estate practice and a violation of this ordinance for any real estate broker, salesperson, agent, owner, or other person to publish or circulate a statement, advertisement, or notice or to post or erect any sign or notice upon any real property indicating any intent to sell or lease any real property in a manner that is unlawful under this Chapter 13.02.

13.0205 Refusal of Offers

It shall be an unlawful; real estate practice and a violation of this ordinance for any real estate broker, salesperson, agent, or other person to refuse to receive or to fail to transmit a bona fide offer for the purchase, sale, exchange, or lease of any real property because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, or national origin of persons making such offer.

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CHAPTER 13.03

LENDING, LICENSING, FAIRNESS IN SALE AND RENTAL

13.0301 Discrimination in Lending

It shall be an unlawful real estate practice 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 or 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 property, or to offer or to agree to terms, conditions, or privileges that discriminate between persons because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, education association, or national origin of any party to such agreement, or of any member of the family of any such party, or of the residents of the area in which such real property is located.

13.0302 Licensing

Every real estate broker or salesperson shall apply for and obtain a license from the South Dakota Real Estate Commission, or other State administrative agency charged with the responsibility for such licensing, prior to transacting any business involving real estate as a real estate broker or salesperson and prior to advertising or assuming to act as such real estate broker or salesperson, as provided for under the laws of South Dakota.

13.0303 Fairness in Sale and Rental of Dwellings

This Ordinance prohibits discrimination in the sale or rental of dwellings, discrimination in the financing of housing, blockbusting, and discriminatory advertising and makes it unlawful to deny any person access to, or membership or participation in, any multiple listing service or real estate brokers' organization for discriminatory reasons. This Ordinance is applicable to all dwellings except those which are specifically exempt. This Section does not apply to the sale or rental of single-family house by a private individual owner who does not own more than three such single-family houses at any one time. The ordinance does not apply to rooms or units in dwellings containing living quarters occupied by no more than four families living independently of each other if the owner occupies one of such quarters as his residence.

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CHAPTER 13.04

MISREPRESENTATION AND VIOLATIONS

13.0401 Representation

It shall be an unlawful real estate practice and a violation of this ordinance for any real estate broker, salesperson, agent, or other person, for the purpose of inducing any other person to enter into a real estate transaction with such person, his principal, or agent, to:

(a) Represent that a change has occurred, will occur, or may occur, or may occur with respect to race, color religion, age, marital status, physical limitations, source of income, family responsibilities, educational association, or national origin in the composition of owners or occupants in any block, neighborhood, or area in which the real property (which is the subject of the real estate transaction) is located, or (b) Represent that a change with respect to race, color, religion, age, marital status, physical limitations, source of income, family responsibilities, educational association, or national origin in the composition of owners or occupants in any block, neighborhood, or area will result in the lowering of property values, or in a decline in the quality of schools in such blocks, neighborhood or area.

13.0402 Other Violations

It shall be an unlawful real estate practice and a violation of this ordinance for any real estate broker, salesperson, agent, owner, or any other person:

- (a) To aid, abet, incite, or coerce a person to commit an unlawful real estate practice under this Ordinance;
- (b) To purchase, lease, or rent real estate for residential purposes, or to authorize and direct one in his employment or on his behalf to do so, or solicit any other person to do so on his behalf for the specific reason and intention of preventing any other person or persons from purchasing, renting, leasing, or occupying such residential real estate by reason of the race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, or national origin;
- (c) To deliberately and knowingly refuse examination copies of any listing of real property to any persons because of race, color, religion, sex, marital status physical limitations, source of income, family responsibilities, educational association, or national origin.
- (d) To enter into a listing agreement which prohibits the inspection, sale, lease, or occupancy of real property to any person because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, or national origin.
- (e) To knowingly and willfully interfere with the performance of a duty or the exercise of a power by the board or one of its members or representatives.
- (f) To willfully obstruct or prevent or attempt to obstruct or prevent a person from complying with the provisions of this ordinance or an order issued thereunder.

TITLE XIII

CHAPTER 13.05

FAIR HOUSING BOARD

13.0501 Fair Housing Board

There is hereby created a Fair housing Board which shall consist of five members as hereinafter provided.

13.0502 Composition of Fair housing Board

All five members of the Board shall be appointed from the city at large and shall be citizens who are willing to spend time and effort necessary to carry out the duties of the Board.

13.0503 Methods of Appointment

Members shall be appointed by the Mayor, subject to the approval of the City Council. In the first instance, three members shall be appointed for a term of three years, one for a term of two years, and one for a term of one year. Thereafter, each member appointed shall serve for a term of three years or until his successor is duly appointed and qualified. The Board shall elect one of its members to be its chairman. Three members shall constitute a quorum, but the concurrence of the majority of the entire Board (obtained either at a meeting of the Board or in a poll conducted by the chairman) shall be necessary for Board action.

13.0504 Fair Housing Board Duties and Powers

The Board shall have and exercise the following duties and powers:

- (a) To act as a citizens' advisory committee for the City Council to strive or act to eliminate unlawful real estate practices that violate this Ordinance;
- (b) To encourage or act to assure to persons living, working, or desiring to live or work in the community, an opportunity to purchase, lease, or occupy real property without discrimination because of race, color, religion, age, sex, marital status, physical limitations, source of income, family responsibilities, educational association, or national origin;
- (c) To receive, review, and/or investigate complaints alleging unlawful real estate practices in violation of this Ordinance;
- (d) To attempt to eliminate unfair real estate practices by conciliation, conference, or persuasion;
- (e) To hold public hearings or reviews in the event that its efforts under the above subsection (4) are ineffective or where it deems that such efforts will be ineffective;
- (f) To recommend to the City Council that the City Attorney be instructed to commence appropriate court action against those the Board has deemed to be in violation of this ordinance;
- (g) To recommend to the City Council to recommend to the South Dakota Real Estate Commission investigation, suspension, and/or revocation of licenses of real estate brokers and salespersons in accordance with the requirements of this ordinance;
- (h) To render from time to time but not less than every 12 months, a written report to the City Council of its activities and recommendations with respect to fair real estate practices, which written reports shall be made public after submission to the City Council;

- (i) To exercise such other powers as are vested in the Board by other sections of this ordinance and to adopt such rules and regulations as may be necessary to carry out the purposes of this ordinance.

13.0505 Complaints – Conciliation

- (a) Any person aggrieved in any manner of any violation of any provision of this Ordinance may file with the Board a written verified complaint setting forth his grievance. The complaint shall state:
 - 1. The name and address of the complainant;
 - 2. The name and address of the person against whom the complaint is brought, if known to the complainant;
 - 3. The alleged facts surrounding the alleged violation of this ordinance. Said complaint shall state the names and addresses of all persons believed to have knowledge concerning the alleged facts.
- (b) After the filing of any complaint, the Board shall serve a copy of the complaint on the party or parties charged and the chairman of the Board shall designate a panel, as defined in Section 13.0104 (c) of this Ordinance, to conduct a prompt review or investigation therewith.
- (c) If such panel shall determine after such investigation that probable cause exists for the allegations of the complaint;
 - 1. The chairman of the Board shall set a time and date for a conference with the Board, said conference shall be in private;
 - 2. At such conference, the Board shall interview the complainant and the person or persons against whom the complaint has been directed and shall attempt to resolve the complaint by proper methods of conciliation, negotiation, and persuasion.
- (d) If at any time after the date of filing of the complaint, the Board shall determine that such attempt at conciliation and persuasion would not be in furtherance of the objectives of this ordinance, the Board shall thereupon proceed promptly to a full review or hearing on the complaint in accordance with Section 13.0506.

13.0506 Hearings by Board

Such hearings shall be conducted by the entire Board or a quorum thereof upon ten (10) days notice to all parties. The Board shall have power to administer oaths and to take sworn testimony. The Board shall have the power to subpoena witnesses and pertinent documents, which power may be enforced by the Board by proper petition to the district court of the county where the complainant resides. The complainant and any party alleged to have violated this ordinance shall be entitled to be represented by counsel and shall have the right to defend himself, to call witnesses on his own behalf, and to cross-examine witnesses.

13.0507 Enforcement

- (a) If, upon all the evidence at the hearing, the Board deems that the person complained of, has violated any of the provisions of this ordinance, the Board shall state its findings of fact and shall notify and inform the City Council thereof, recommending that the City Council shall issue and cause to be served upon such person, an order requiring such person to cease or desist from such violation, and to take such affirmative or other action, as in the judgment of the City Council will effectuate the purpose of this ordinance, including a report of the manner of compliance.
- (b) If, upon all the evidence at the hearing, the Board deems that the person complained of has not violated any of the provisions of this ordinance, the Board shall state its findings of fact and shall notify and inform the City Council thereof, recommending that the City Council shall issue and cause to be served upon such person, an order requiring such person to cease or desist from such violation, and to take such affirmative or other action, as in the judgment of the City Council will effectuate the purpose of this ordinance, including a report of the manner of compliance.
- (c) Upon receipt of the Board's recommendation by the City Council, the City Council shall retain jurisdiction of the case until it is satisfied by the person to whom the order was directed has complied. The findings of fact by the Board, the submission of findings and the recommendations of the Board to the City Council, and any order deemed necessary to serve shall be issued within forty-five (45) days after the filing of the complaint and shall be delivered by the City police department, or other designated City Council representative, to the complainant and to the person charged.
- (d) The Board shall be empowered at the conclusion of the proceedings held under Section 13.0506, to recommend to the City Council to instruct the City Attorney to do any one or more of the following:
 - 1. To institute and prosecute proceedings in a court of competent jurisdiction to enforce against any person found in violation of this section the fine provided for in Chapter 13.07;
 - 2. To apply to any court of competent jurisdiction for :
 - (aa) An order restraining any person from violating any provision of this ordinance;
 - (bb) Such other future relief as may seem to the court appropriate for the enforcement of this section and for the elimination of violation hereof;
- (e) To petition or institute proceedings with the South Dakota Real Estate Commission for the purpose of causing the Commission to review, revoke, suspend, or refuse to renew the license granted by such Commission to any real estate broker or real estate salesperson found to have violated any provision of this ordinance.
- (f) The Board is also empowered at the conclusion of the proceedings to recommend to the City Council that said City Council shall, in turn, recommend to the South Dakota Real Estate Commission the review, suspension, and/or revocation of the real estate broker's or real estate salesperson's license of any broker or salesperson licensed by the South Dakota Real Estate Commission against whom

a complaint shall have been filed and who shall have been a part to any proceedings thus filed and deemed in violation of any applicable provisions of this ordinance.

13.0508 Limitation of Time to File Complaints

Any complaint filed hereunder with the Board must be filed within sixty (60) days after the alleged discriminatory practice occurred or it shall be barred.

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CHAPTER 13.06

REMEDIES

13.0601 General Remedies

Any person aggrieved in any manner by the violation of any provision of this ordinance who has exhausted the remedies provided in Sections 13.0505 and 13.0506 who has exhausted the remedies provided in said ordinance may apply to any court 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, a conveyance, or assignment of any dwelling or housing which is the subject of such violation;
- (c) An order requiring specific performance of any contract for the sale, lease, exchange, transfer, conveyance, or assignment of any dwelling or housing, by any person who in violation of this ordinance refuses to or fails to perform such contract;
- (d) Compensatory damages, and if appropriate, punitive damages;
- (e) Such other and further relief as maybe deemed appropriate to the court for the enforcement of this ordinance and the eliminations of violations thereof.

13.0602 Temporary Court Order

Any complainant under this ordinance may apply to a court of competent jurisdiction for an order temporarily prohibiting any transaction affecting the real property which is the subject of the complainant's pending complaint under this ordinance prior to final determination by the Board, said Board's recommendation to the City Council, and the subsequent action of the City Council thereto, where the owner of said property is one of the parties complained thereof.

13.0603 Judicial Review

Any party, complainant, or person aggrieved by an order of the City Council, acting upon the recommendation of the Board, shall have the right to obtain judicial review of such order.

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CHAPTER 13.07

FINES AND SEVERABILITY

13.0701 Fines

Any person violating any provision of this ordinance may, in addition to revocation or suspension of the license herein acquired or in lieu thereof, be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense.

13.0702 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.