

ORDINANCE NO. 2018-2145

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, PROVIDING FOR AMENDMENT OF CHAPTER 14 OF THE NEW PORT RICHEY CODE OF ORDINANCES, PERTAINING TO MISCELLANEOUS OFFENSES; PROVIDING A NEW ARTICLE VII THEREIN; DECLARING IT TO BE THE POLICY OF THE CITY TO ELIMINATE DISCRIMINATION IN HOUSING BASED UPON RACE, COLOR, RELIGION, ANCESTRY, SEX, PLACE OF BIRTH, PHYSICAL HANDICAP, NATIONAL ORIGIN OR FAMILIAL STATUS; PROVIDING DEFINITIONS OF TERMS; PROVIDING FOR EXEMPTIONS; PROHIBITING UNLAWFUL ACTS OF DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING; PROHIBITING UNLAWFUL ACTS OF DISCRIMINATION IN BROKERAGE SERVICES; PROVIDING FOR THE ADMINISTRATION OF THIS ORDINANCE; PROVIDING FOR PROCEDURES FOR COMPLAINTS; PROVIDING FOR HEARINGS; PROVIDING FOR REMEDIES; PROVIDING PROCEDURES FOR FILING REPORTS WITH THE FLORIDA REAL ESTATE COMMISSION; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, discrimination in the provision of housing is a detriment to the public health, safety, welfare and quality of life of the residents of the City;

WHEREAS, the elimination of discrimination in the provision of housing will enhance the quality of life for all citizens in a diverse society; and

WHEREAS, it is declared as a matter of legislative determination and public policy that the provisions and prohibitions herein are necessary in the public interest; and it is further declared that the provisions and prohibitions herein are in pursuance of and for the purpose of securing and promoting the public health, safety, welfare and quality of life in the City in accordance with the City's police powers.

**NOW, THEREFORE, THE CITY OF NEW PORT RICHEY, FLORIDA
HEREBY ORDAINS:**

Section 1. Chapter 14 of the Code of Ordinances, pertaining to miscellaneous offenses, is hereby amended by adding a new Article VII thereto, as follows (the entire article is new and is therefore not underlined):

ARTICLE VII. – HOUSING DISCRIMINATION

Sec. 14-70. Declaration of Policy.

It is hereby declared to be the policy of the City of New Port Richey, Florida, in the exercise of its police power for the public safety, public health, and general welfare, to assure equal opportunity to obtain adequate housing by all persons, regardless of race, color, religion, ancestry, sex, place of birth, physical handicap, national origin, or familial status, and to that end, to eliminate discrimination in housing.

Sec. 14-71. Definitions.

For purposes of this article, the terms in this section shall have the meanings ascribed thereafter.

- (a) "Council" means the City Council of New Port Richey, Florida.
- (b) "Discriminatory Housing Practice" means an act that is unlawful under this article.
- (c) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (d) "Familial Status" means the status of one or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or individuals or the designee of such parent or other persons having such custody, with the written permission of such parent or other person. The term shall include the status of any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.
- (e) "Family" means one or more persons living together as a unit in the same dwelling, regardless of relationship.
- (f) "Person" means an individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint-stock company, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver, or fiduciary.
- (g) "Rent" means to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- (h) "Single Family Home" means a structure containing one (1) dwelling unit, as defined in the Land Development Code, and not attached to any other dwelling unit by any means.

Sec. 14-72. Exemptions.

The provisions of this article shall not apply to the following, so long as there is no discrimination against any person in the terms, conditions, or privileges of sale or rental of a

dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, ancestry, sex, place of birth, physical handicap, national origin or familial status:

(a) the sale or rental of any single family home sold or rented by an owner who owns fewer than four (4) single family homes at any one time, so long as:

- (1) in the case of the sale of any such single family home by an individual owner not residing in such home at the time of such sale or who was not the most recent resident of such home prior to such sale, the sale is the only such sale within any twenty-four (24) month period;
- (2) such individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to any right to all or a portion of the proceeds of the sale or rental of more than three (3) such single family homes at any one time;
- (3) such individual has not, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein;
- (4) such individual has not, within the preceding twelve (12) months, participated as agent, other than in the sale of his or her personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein;
- (5) such individual is not the owner of any dwelling designated or intended for occupancy by, or occupied by, five (5) or more families; and
- (6) such house is sold or rented without the use of:
 - i. any manner of sales or rental facilities, other than attorneys, escrow agents, abstractors, title companies, and other such professional assistance necessary to perfect or transfer the title;
 - ii. the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent salesman, or person; and
 - iii. the publication, posting or mailing, after notice, of any advertisement or written notice in violation of Section 14-73 (c) of this article;

(b) the sale or rental of rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence;

(c) a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, that limits 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, color, ancestry, sex, place of birth, physical handicap, national origin or familial status; and

(d) a private club not open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, that limits the rental or occupancy of such lodging to its members or gives preference to its members.

Sec. 14-73. Discrimination in the sale or rental of housing.

It shall be unlawful and a violation of this article to:

(a) refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, ancestry, sex, place of birth, physical handicap, national origin or familial status;

(b) discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in provision of services or facilities in connection therewith, because of race, color, religion, ancestry, sex, place of birth, physical handicap, national origin or familial status;

(c) make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, ancestry, sex, place of birth, physical handicap, national origin, familial status or any intention to make any such preference, limitation, or discrimination;

(d) represent to any person because of race, color, religion, ancestry, sex, place of birth, physical handicap, national origin or familial status that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available; or

(e) induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, ancestry, sex, place of birth, physical handicap, national origin or familial status.

Sec. 14-74. Discrimination in the financing of housing.

It shall be unlawful and a violation of this article 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 real estate loans, to deny a loan or other financial assistance to a person applying for the same for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against any person in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, ancestry, sex, place of birth, physical handicap, national origin or familial status of such person or of any person associated therewith in connection with 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.

Sec. 14-75. Discrimination in the provision of brokerage services.

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

Sec. 14-76. Administration.

(a) The authority and responsibility for administering this article shall be with the Council.

(b) The Council may delegate its functions, duties, and powers to an appointed board or hearing officer, including the functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this article. The term "Council" as used herein, shall include any board or hearing officer appointed by the Council, to the extent of such appointment as made hereunder.

(c) The Council, and any appointed board and hearing officer, as specifically assigned by the Council, shall:

(1) implement the provisions of this article and rules and regulations promulgated hereunder and all ordinances, codes, rules, and regulations pertaining to housing discrimination;

(2) receive, initiate, and investigate any and all complaints alleging violations of this article, and take appropriate action to eliminate, conciliate, prevent, and/or initiate prosecution of any such violations;

(3) provide assistance in all matters relating to equal housing opportunity;

(4) publish and disseminate public information and educational materials relating to housing discrimination;

(5) enter into written working agreements, as may be necessary to effectuate the purposes of this article, with federal, state and county agencies involved in reducing housing discrimination;

(6) administer oaths and compel the attendance of witnesses and the production of evidence before it by subpoenas issued by the Council, or its appointed board or hearing officer; and

(7) take other informational, educational, or persuasive actions to implement the purposes of this article.

Sec. 14-77. Procedure.

(a) Any person aggrieved by an unlawful practice prohibited by this article may file a written complaint with the City Manager, within forty-five (45) days after the alleged unlawful practice occurs.

(b) Upon receipt of a complaint, the City Manager shall serve upon the individual charged with a violation (hereinafter referred to as the respondent), the complaint and a written statement setting forth the rights of the parties including, but not limited to, the right of the respondent to a hearing on the matter before adjudication by the Council.

(c) The City Manager, or his or her designee, shall immediately investigate the complaint. Within sixty (60) days from the date of the receipt of the complaint, the City Manager, or his or her designee, shall prepare a written report with findings of fact.

(d) Copies of the written report of the City Manager, or his or her designee, shall be sent to the complainant and the respondent. Either may within ten (10) days after such service, request a hearing before the Council.

(e) When the complainant or the respondent requests a hearing by the Council, or when the City Manager determines that a hearing is desirable, the Council, shall call and conduct such hearing in accordance with Section 14-78 of this article.

(f) The City Manager shall execute the actions specified in his or her report, or, if a hearing is held, shall execute the actions determined by the Council, in said hearing.

(g) The Council, in its review or its hearing, may determine:

(1) the complaint lacks ground upon which to base action for violation of this article;

(2) the complaint has been adequately addressed by the conciliation of the parties; and/or

(3) the case warrants filing charges against the respondent in the appropriate court.

(h) If the Council issues an adjudicative order to correct, adjust, conciliate, prevent, or prohibit any unlawful act prohibited by this article, and the respondent refuses or fails to comply with or obey such adjudication, the Council shall forthwith request that the State Attorney file a complaint in the appropriate court. The City Manager shall provide the complainant with information as to all the alternatives available to him or her under local, state, and federal law, including assistance to initiate judicial action if desired, under the circumstances.

(i) The provisions of Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed by this article.

(j) All papers or pleadings required by this ordinance to be served may be served by certified mail or in accordance with the provisions of Rule 1.080(b), Florida Rules of Civil Procedure.

Sec. 14-78. Hearings.

(a) When a hearing is required under this article, the City Manager shall schedule the hearing and serve upon all interested parties a notice of the time and place of the hearing. The hearing shall be held promptly, but not less than thirty (30) days after service of such.

(b) The parties, or their authorized counsel, may file such statements with the Council, prior to the hearing date, as they deem necessary in support of their respective positions. The parties may appear before the Council, in person or by duly constituted representative and may have the assistance of attorneys. The parties may present testimony and evidence, and shall have the right to cross-examine witnesses. All testimony shall be given under oath or by affirmation. The Council shall not be bound by strict rules of evidence prevailing in courts of law or equity, but due process shall be observed. The Council shall keep a record of the hearing, which record shall be made public and open to inspection by any person, and upon request by any party to the proceedings, the City Manager shall furnish such party a copy of the hearing record upon payment of the cost thereof. The constitutional right of the respondent against self-incrimination shall be observed.

(c) The Council may issue subpoenas to compel attendance of witnesses or access to or the production of records, documents, individuals, and other evidence or possible sources of evidence relative to the complaint at issue.

(d) Upon written application to the Council, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Council, to the same extent and subject to the same limitations as subpoenas issued by the Council. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his or her request.

(e) Witnesses summoned by subpoena of the Council shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the state courts of Florida. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him or her, unless he or she is indigent, in which case the City shall bear the cost of said fees.

(f) Within ten (10) days after service of a subpoena upon any person, such person may petition the Council to revoke or modify the subpoena. The Council shall grant the petition if it finds that the subpoena requires appearance or attendance, at an unreasonable time or place, that it requires production of evidence which does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good cause.

(g) In case of refusal to obey a subpoena, the Council, or the person at whose request it has issued said subpoena, may petition for its enforcement in the appropriate court.

(h) At the conclusion of the hearing or thereafter, the Council shall make findings of fact, and a determination of action to be taken to address any violation found.

Sec. 14-79. Other remedies, reporting violations.

(a) Nothing contained in this article shall prevent any person from exercising any right or seeking any remedy to which he or she might otherwise be entitled, or from filing any complaint with any other agency or any court having proper jurisdiction over the matter.

(b) If a real estate broker, a real estate salesman, or any employee thereof, has been found to have committed an unlawful practice in violation of this article, or has failed to comply with an order issued by the Council, the Council may, in addition to the other procedures set forth herein, report the facts to the Florida Real Estate Commission, as appropriate.

Section 2. Conflict with Other Ordinances and Codes. All ordinances or parts of ordinances of the City of New Port Richey, Florida, in conflict with the provisions of this ordinance, are hereby repealed to the extent of such conflict.

Section 3. Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

Section 4. Effective Date. This ordinance shall take effect immediately upon its adoption as provided by law.

The foregoing Ordinance was duly read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this 4th day of September, 2018, and read and adopted on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this 18th day of September, 2018.

ATTEST:

By: _____
Judy Meyers, City Clerk

By: _____
Robert Marlowe, Mayor

(Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE
SOLE USE AND RELIANCE OF THE CITY OF NEW
PORT RICHEY, FLORIDA:

Timothy P. Driscoll, City Attorney