ORDINANCE NO. 17653

AN ORDINANCE introduced by Mayor Joan Wagonon providing for fair housing practices in the City of Topeka and amending the City of Topeka Code by the addition of the following language.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. Purpose.

The purpose of this chapter is to provide fair housing practices in the city. It is hereby declared to be the policy of the city to eliminate discrimination in housing because of race, religion, color, sex, disability, familial status or national origin. It is also the purpose of this chapter to create a procedure for investigating and settling complaints of discriminatory housing practices and to provide rights and remedies substantially equivalent to those granted under state and federal law.

Section 2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggrieved person means any person who claims to have been injured by a discriminatory housing practice or believes that such person will be injured by a discriminatory housing practice that is about to occur.

Commission means the Topeka Human Relations Commission.

Complainant means a person, including the commission, who files a written verified complaint alleging a complaint under this chapter.
Conciliation means the attempted resolution of issues raised by a complainant or by the investigation of the complaint through informal negotiations, involving the aggrieved person, the respondent and the commission.

Conciliation agreement means a written agreement setting forth the resolution of the issues in conciliation.

Director means the administrative head of the Topeka Human Relations Commission.

Disability means a physical, developmental, mental or emotional impairment which substantially limits one or more major life activities such as learning, communication, mobility, self-care, socialization, employment, housing or recreation. This includes any individual who is so limited as a result of having a record of such an impairment or being regarded as having such an impairment. Such impairments shall not limit a person's ability to perform essential functions of a particular job for which that person is otherwise qualified, nor limit such person's ability to occupy housing or to use public accommodations or other services or facilities covered by this chapter; provided, that reasonable accommodation is made for the impairment, if required. Current illegal use or addiction to a controlled substance is excluded from this definition.

Discriminatory housing practice means an act prohibited by this chapter.

Dwelling means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any
vacant land which is offered for sale or lease for the construction or location thereon of any
such building, structure or portion thereof.

*Family* includes a single individual.

*Familial Status* means:

(1) The status resulting from one or more persons who are under the age of
eighteen (18) years being domiciled with an individual who is either 1) the parent of
the persons under age eighteen (18); 2) the legal guardian of the persons under
age eighteen (18); or 3) the designee (with written authorization) of the parent or
legal guardian or custodian of the persons under age eighteen (18).

(2) The status resulting from being pregnant.

(3) The status resulting from being in the process of securing legal custody of
any person who is under the age of eighteen (18).

*Governing body* means the mayor and city council of the city.

*Housing for older persons* means housing (1) that the commission determines is
specifically designed and operated to assist elderly persons under a state program; (2)
intended for, and solely occupied by, persons sixty two (62) years or age or older; or (3)
itended and operated for occupancy by at least one (1) person fifty five (55) years of age
or older per unit in accordance with commission rules.
Major life activities means function such as, but not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Person means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title VII of federal law, receivers and fiduciaries.

Respondent means the person against whom a written verified complaint alleging unlawful housing discrimination has been filed with the commission, or any person identified as an additional or substitute respondent or an agent of an additional or substitute respondent under section 13.

To rent means to lease, sublease, let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Written verified complaint means a complaint, in writing, alleging unlawful discrimination, filed in accordance with section 10 of this chapter, which has been witnessed and signed by a notary public.

Section 3. Authority of the Topeka Human Relations Commission executive director.

The commission’s executive director shall have the following duties and responsibilities in the investigation and settling of discrimination in housing complaints:

(1) to administer and enforce the provisions of this chapter;
(2) to adopt, promulgate, amend and rescind suitable rules and regulations necessary to carry out the provisions of this act and the policies and practices of the commission in connection therewith, as well as, impose obligations, rights and remedies which are substantially the same as provided in federal fair housing regulations;
(3) to receive, investigate, decide, act on and attempt to conciliate or refer all complaints alleging violations of this chapter;
(4) to delegate duties, functions and responsibilities to any staff personnel employed as authorized;
(5) to appoint conciliation committees, as needed, from among the commission members;
(6) to issue subpoenas and order discovery in aid of investigation and hearings under this chapter. The subpoenas and discovery may be ordered to the same extent and are subject to the same limitations as subpoenas and discovery in a civil action in a district court; and
(7) to exercise any other duties and responsibilities specified as the director's in any section of this chapter.

Section 4. Duties and responsibilities of the Topeka Human Relations Commission.

In eliminating discriminatory housing practices, the commission will:

(1) Support the director to endeavor to eliminate prejudice in housing because of race, religion, color, sex, disability, familial status or national origin; and support the director in seeking additional funding to effectuate the
purposes of this chapter; issue such publications, results of investigation not confidential in nature, and research as, in the judgment of the city attorney's office and director, will tend to promote goodwill and minimize or eliminate discrimination in housing; and advise and support the commission, director, and staff; and receive and accept reports.

(2) Permit the filing and investigation of complaints and hold such public hearings as are further provided for in this chapter.

(3) Prepare and submit an annual report to the city and the city council of the activities of the commission, the executive director, and staff in investigating complaints; resolving or conciliating complaints; determining allegations; issuing orders or charges; identifying issues and problem areas within the Topeka community; and, after reviewing the performance of the commission, executive director and staff during the year, shall propose any modifications to this chapter that would improve the effectiveness of enforcement by the commission and better fulfill the antidiscrimination policies of the city.

(4) Conduct studies relating to the nature and extent of discriminatory housing practices in the city.

(5) Cooperate with and, as appropriate, provide technical and other assistance to federal, state, local and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practice.

Section 5. Intimidation, interference.
It shall be unlawful for any person to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of such person’s having exercised or enjoyed, or on account of such person’s having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected in this chapter.

Section 6. Unlawful housing practices; definitions.

It is the policy of the city to provide, within constitutional limitations, for fair housing throughout the corporate limits of the city. The following housing practices shall be unlawful:

1. To refuse to sell or rent after the making of a bona fide offer, to fail to transmit a bona fide offer or refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, religion, color, sex, disability, familial status or national origin.

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, religion, color, sex, disability, familial status or national origin.

3. To make, print, publish, disseminate or use or cause to be made, printed, published, disseminated or used any notice, statement, advertisement or application, with respect to the sale or rental of a dwelling that indicates any preference, limitation, specification or discrimination based on race, religion, color, sex, disability, familial status or national origin, or an
intention to make any such preference, limitation, specification or discrimination.

(4) To represent to any person because of race, religion, color, sex, disability, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, disability, familial status or national origin.

(6) (A) To discriminate in the sale or rental of or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of:

(1) that buyer or renter;

(2) a person residing in or intending to reside in such dwelling after it is sold, rented or made available; or

(3) any person associated with that buyer or renter.

(B) 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 with such dwelling, because of a disability of:

(1) that person;

(2) a person residing in or intending to reside in that dwelling after it is sold, rented or made available; or

(3) any person associated with that person.
(C) For purposes of this subsection, the term "discrimination" includes:

(1) a refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modification may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(2) a refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(3) in connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:

(a) The dwelling has at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.
(b) With respect to dwellings with a building entrance on an accessible route:

(1) the public use and common use portions of such dwelling are readily accessible to and usable by persons with disabilities. This shall include at least one (1) building entrance on an accessible route unless it is impracticable to do so because of the terrain or unusual characteristics of the site;

(2) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with disabilities who are in wheelchairs; and

(3) all premises within such dwellings contain the following features of adaptive design:

(i) an accessible route into and through the dwelling;

(ii) light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(iii) reinforcements in bathroom walls to allow later installation of grab bars; and
(iv) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(D) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as ANSI A 117.1, suffices to satisfy the requirements of subsection (C)(3)(b)(3).

(E) As used in this subsection, covered multifamily dwelling means:

(1) buildings consisting of four (4) or more units if such buildings have one (1) or more elevators; and

(2) ground floor units in other buildings consisting of four (4) or more units.

(F) Nothing in this chapter shall be construed to invalidate or limit any state law or ordinance that requires dwellings to be designed and constructed in a manner that affords persons with disabilities greater access than is required by this chapter.

(G) Nothing in this subsection requires a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
Section 7. Discrimination in residential real estate related transactions.

(a) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, religion, color, sex, disability, familial status or national origin.

(b) Residential real estate related transaction, as used in this section, means any of the following:

(1) The making or purchasing of loans or providing, other financial assistance:

   (A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

   (B) secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(c) Nothing in this subsection prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, religion, color, sex, disability, familial status or national origin.

(d) This section is applicable to businesses transacting real estate related transactions in the preceding twelve (12) months of the filing of a complaint.

Section 8. Discrimination in the provision of brokerage services.
It shall be unlawful for any person to deny any other person access to, or
membership, or participation in any multiple listing service, real estate brokers' organization
or other service, organization or facility relating to the business of selling or renting
dwellings, or to discriminate against any person in terms or conditions of such access,
membership or participation, on account of race, religion, color, sex or disability. This
section is applicable to businesses transacting real estate related transactions in the
preceding twelve (12) months of the filing of a complaint. Nothing in this subsection
prohibits a person engaged in the business of furnishing appraisals of real property to take
into consideration factors other than race, religion, color, sex, disability, familial status or
national origin.

Section 9. Limitations.

(a) Nothing in this section shall prohibit a religious organization, association or
society, or any nonprofit institution or organization operated, supervised or
controlled by or in conjunction with a religious organization, association or society,
from limiting the sale, rental or occupancy of dwellings which it owns or operates for
other than a commercial purpose to persons of the same religion, or from giving
preference to such persons, unless membership in such religion is restricted on
account of race, color, or national origin. Nor shall anything in this section prohibit a
private club not in fact open to the public, which as an incident of its primary
purpose or purposes provides lodging 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.
(b) Nothing in this section, other than the prohibitions against discriminatory advertising as provided in subsection (3) of section 6 of this chapter, shall apply to:

(1) The sale or rental of any single family house by an owner, providing the following conditions are met:

(A) the owner must not own or have an interest in more than three (3) such single family houses at any one (1) time; and

(B) the house is sold or rented without the use of a real estate broker, agent or salesperson or the services and facilities of any person in the business of selling and renting dwellings, and without publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 6 of this chapter. But nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as is necessary to perfect title or transfer of title. In the case of the sale of any such house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted in this subsection shall apply only with respect to one such sale in any twenty four (24) month period; or

(2) Rooms or units in buildings 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 the owner’s residence.

(c) (1) Nothing in this section limits the applicability of any reasonable local, 
state or federal restrictions regarding the maximum number of occupants 
permitted to occupy a dwelling. Nor does any provision in this section 
regarding familial status apply with respect to housing for older persons.

(2) Housing shall not fail to meet the requirements for housing for older 
person by reason of:

(A) persons residing in such house as of the date of enactment of 
this Act who do not meet the age requirements of sections (2)(B) or 
(C); provided, that new occupants of such housing meet the age 
requirement of sections (2)(B) or (C); or

(B) unoccupied units; provided, that such units are reserved for 
occupancy by persons who meet the age requirement of subsections 
(2)(B) or (C).

(3) A person shall not be held personally liable for monetary damages for 
a violation of this section if such person reasonably relied, in good faith, on 
the application of the exemptions under this subsection relating to housing 
for older persons.

(d) Nothing in this section prohibits conduct against a person because such 
person has been convicted by any court of competent jurisdiction of the illegal
manufacture or distribution of a controlled substance as defined in section 102 of the federal controlled substances act (21 U.S.C. 802).

Section 10. Filing a discrimination in housing complaint.

(a) Procedure generally. Any person claiming to be aggrieved by an alleged unlawful housing practice, or an attorney at law representing such a person, may make, sign and file with the commission at the commission's official office a written verified complaint, which shall state the name and address of the person alleged to have committed the unlawful housing practice, shall set forth the particulars thereof, and shall contain such other information as may be required by the commission. The commission, on its own initiative, may also file such a complaint. Notwithstanding the above, neither the commission nor the director shall initiate, accept for investigation, or investigate a complaint alleging an unlawful housing practice by the city, its agents or employees.

(b) Amendments. A complaint may be amended at any time.

(c) Notice to complainant. Upon the filing of a complaint, the commission shall give the aggrieved person notice that the complaint has been received, advise the aggrieved person of the time limits and choice of forums under this chapter and include a copy of the complaint.

(d) Complaint filing period. A written verified housing complaint shall be filed within 365 days (1 year) after the alleged discriminatory housing practice has occurred or terminated, whichever is later.
(e) Additional respondents. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent in accordance with section 13 of this chapter.

(f) Open records. The commission and the director shall use the Kansas Open Records Act (K.S.A. 45-215 et seq.) in determining any requests for public records.

Section 11. Notice to respondent; answer.

(a) Within ten (10) days of the filing of a written verified complaint from any source, the director shall notify the respondent by certified mail that a complaint has been filed, attach a copy of the complaint, identify the alleged discriminatory housing practices, and advise the respondent of his or her procedural rights and obligations under this chapter.

(b) A respondent may file an answer to the complaint with the commission not later than ten (10) days after receipt of notice of the complaint.

(c) An answer must be in writing, under oath and in the form prescribed by the commission. An answer may be amended at any time and an answer does not inhibit the investigation of a complaint.

Section 12. Investigation; time limit.

(a) Upon the filing of a complaint alleging that any person has engaged in an unlawful housing practice, the chairperson of the commission, in consultation with
the director, shall designate a commission member as investigating commissioner.

The director, or designated staff, shall investigate the alleged illegal act.

(b) The director or designated staff shall commence proceedings within thirty
(30) days of receipt of the complaint and within one hundred (100) days of filing
determine, based on the facts, whether reasonable cause exists to believe that a
discriminatory housing practice has occurred or is about to occur, unless it is
impracticable to do so. If the director or designated staff is unable to make such a
determination within one hundred (100) days, then he or she shall notify the
complainant and respondent in writing of the reasons for not doing so.

(c) The director or designated staff shall make a final administrative disposition
of a housing complaint within one (1) year of the date of receipt of a complaint
unless it is impracticable to do so in which case the director shall notify the
complainant and respondent in writing of the reasons for not doing so.

(d) The director or designated staff shall prepare a final investigative report
showing:

(1) the names and dates of contact with witnesses;

(2) a summary of correspondence and other contacts with the aggrieved
person and the respondent showing the dates of the correspondence and
contacts;

(3) a summary description of other pertinent records;

(4) a summary of witness statements; and

(5) answers to interrogatories.
A final report under this section may be amended if additional evidence is discovered.

Section 13. **Additional or substitute respondent.**

The commission may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation the commission determines that the person may have committed a discriminatory housing practice. In addition to the information required in the notice under section 10, the commission shall include in a notice to a respondent joined under this section an explanation of the basis for the determination that the person is properly joined as a respondent.

Section 14. **Conciliation.**

During the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the commission, the investigating commissioner and/or the director shall immediately endeavor to eliminate the unlawful act or practice complained of by conciliation. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the commission. Such conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief. The members of the commission, the director and the staff shall not disclose what has transpired in the course of such endeavors. Each conciliation agreement shall be made public unless the person
aggrieved and respondent otherwise agree and the commission determines that disclosure
is not required to further the purposes of this chapter.

Section 15. Reasonable cause determination.

The commission shall determine based on the facts whether reasonable cause
exists to believe that a discriminatory housing practice has occurred or is about to occur.
Such determination shall be made within one hundred (100) days of the filing of the
complaint unless the commission has approved a conciliation agreement relating to the
complaint. If the commission determines that reasonable cause exists to believe that a
discriminatory housing practice occurred or is about to occur, the commission shall, except
as provided by subsection (e) of section 18, immediately issue a charge on behalf of the
aggrieved person.

Section 16. Dismissal.

If the commission determines that no reasonable cause exists to believe that a
discriminatory housing practice occurred or is about to occur, the commission shall
promptly dismiss the complaint and shall make public disclosure of each dismissal under
this section.

Section 17. Public hearings.

(a) The procedure for notice and conduct of commission hearings shall be in
accordance with the Kansas Administrative Procedures Act, specifically K.S.A. 77-
514 through K.S.A. 77-532 and any applicable amendments. Additionally, if the
director concludes at any time following the filing of a complaint that prompt judicial
action is necessary to carry out the purpose of this chapter, the director may
authorize a civil action for appropriate temporary or preliminary relief pending final
disposition of the complaint under this section. The commencement of a civil action
under this subsection does not affect the initiation or continuation of administrative
proceedings under this section. A temporary restraining order or other orders
granting preliminary or temporary relief under this section are governed by the
applicable Kansas Rules of Civil Procedure.

(b)  Election to file civil action in housing cases.

(1)  When a written notice of hearing on a complaint of housing
discrimination is issued, a complainant, a respondent, or an aggrieved
person on whose behalf the complaint was filed may elect to have the claims
asserted in that complaint decided in a civil action. Written notice of an
election made under this subsection shall be filed with the commission with
notice to all parties within twenty (20) days of the date on which the notice of
hearing was received.

(2)  If such an election is made, the director shall request that the city
attorney file a suit on behalf of the city and the complainant unless the
complainant chooses to bring an action through his or her own private
counsel. Within thirty (30) days of the election, the city attorney shall
commence, maintain and pay the costs of a civil action in the name of the
city and any complainant not represented by private counsel seeking relief,
however, before such suit is filed by the city on behalf of any complainant,
the complainant will agree in writing that any costs or attorneys' fees
recovered in such action will be remitted to the city. The complainant shall have no liability to the city for costs and attorneys' fees except to the extent that such costs and attorneys' fees are awarded by the court to the complainant and paid by a respondent (defendant). Should the city attorney prevail in such suit, the city attorney is hereby authorized and directed to seek and recover costs and attorneys' fees. Any attorneys' fees or costs recovered by the city or by a complainant and remitted to the city shall be paid into the general fund of the city.

(3) The court hearing such civil action may award actual and punitive damages in accordance with section 19 of this chapter and may grant temporary or permanent injunctions, temporary restraining orders and any other such orders that it determines appropriate.

(4) The commission may not issue a charge under section 18 of this chapter after the beginning of the trial of a civil action commenced by the aggrieved party.

(c) Enforcement by private persons. An aggrieved person may commence a civil action in an appropriate court with competent jurisdiction not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice whether or not a complaint has been filed under section 10. Such two (2) year limitation shall not include any time during which an administrative proceeding under this chapter was pending. Provided, an aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing
practice which forms the basis of a charge issued by the director if an administrative
law judge has commenced a hearing on the record under this subsection with
respect to such charge.

(d) Civil enforcement of order. Any party aggrieved by a final decision or order
may secure enforcement of such decision or order of the hearing commissioners in
accordance with the Act for Judicial Review and Civil Enforcement of Agency
Actions as provided by K.S.A. 77-606 et seq.

Section 18. Order; charge.

(a) Order. If, upon all the evidence in the hearing, the hearing-commissioners
find that the respondent has engaged in, is about to engage in, or is engaging in
any unlawful act or practice as defined in this chapter, the hearing commissioners
shall state the findings of fact and shall issue and cause to be served on such
respondent an order requiring such respondent to cease and desist from such
discriminatory housing practice, and such order may direct the respondent to take
such affirmative action as the hearing commissioners deem necessary to effectuate
the intent and purposes of this chapter.

(b) Charge. A charge issued under section 18 must consist of a short plain
statement of the facts on which the commission has found cause to believe that a
discriminatory housing practice occurred or is about to occur, must be based on the
investigation and need not be limited to the facts or grounds alleged in the
complaint.
(c) Notice. Immediately upon issuing a charge, the commission shall send a copy of the charge with information concerning the election of a civil action or opportunity for an administrative hearing under section 17 of this chapter to:

(1) each respondent; and

(2) each aggrieved person on whose behalf the complaint was filed.

(d) Damages. Such order and charge issued under this section may include an award of damages consistent with section 19 of this chapter.

(e) State or local zoning. If the commission determines that the matter involves the legality of a state or local zoning or other land use law or ordinance, the commission may not issue a charge and shall immediately refer the matter to the city attorney for appropriate action.

Section 19. Remedies.

An order issued under this chapter may include an award of compensatory and punitive damages, and of damages for pain, suffering and humiliation which are incidental to the act of discrimination, except that an award for such pain, suffering and humiliation shall in no event exceed the sum of two thousand dollars ($2,000.00). Such order may also, to vindicate the public interest, assess a civil penalty against the respondent:

(1) in an amount not exceeding eleven thousand dollars ($11,000.00), if the respondent has not been adjudged to have committed any prior discriminatory housing practice.
(2) Except as provided in subsection (4), in an amount not exceeding twenty-seven thousand five hundred dollars ($27,500.00), if the respondent has been adjudged to have committed one (1) other discriminatory housing practice during the five (5) year period ending on the date of the filing of the complaint.

(3) Except as provided in subsection (4), in an amount not exceeding fifty five thousand dollars ($55,000.00), if the respondent has been adjudged to have committed two (2) or more discriminatory housing practices during the seven (7) years ending on the date of the filing of the complaint.

(4) If the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties in subsections (2) and (3) may be imposed without regard to the period of time within which any other discriminatory housing practice occurred.

Section 20. Effect of commission order or relief granted.

A commission order or relief granted under this chapter does not affect a contract, sale, encumbrance, or lease that was consummated before the commission issued an order or relief was granted if it involved a bona fide purchaser, encumbrancer or tenant who did not have actual notice of the charge filed under this chapter.

Section 21. Subpoena enforcement.
The city attorney, on behalf of the commission or other party at whose request a subpoena is issued under this chapter, may enforce the subpoena in appropriate proceedings in district court.

Section 22. **Severability.**

If any part of this Ordinance shall be held unconstitutional, invalid, or otherwise unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

Section 23.

This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council [February 20, 2001]

Joan Wagnon, Mayor

ATTEST:

Heman Streeter, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 3/01/01 BY ____________
TO BE CODIFIED ____________
NOT TO BE CODIFIED ____________

LORD/FAIR HOUSING 02/08/01