

790.05 FAIR HOUSING BOARD; POWERS; DUTIES; RESPONSIBILITIES

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CODIFIED ORDINANCES OF THE CITY OF SHEFFIELD LAKE, OHIO

CERTIFICATION

ROSTER OF OFFICIALS

ADOPTING ORDINANCE NO. 116-84

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OH

Sheffield Lake

Codified Ordinances of Sheffield Lake, OH

790.05 FAIR HOUSING BOARD; POWERS; DUTIES; RESPONSIBILITIES

CHAPTER 790 Fair Housing

790.03 UNLAWFUL DISCRIMINATORY HOUSING PRACTICES.

It shall be an unlawful discriminatory housing practice for any person to:

(a) Refuse to sell, transfer, assign, rent, lease, sublease, finance, or negotiate after the making of a bona fide offer, or otherwise deny or make unavailable, because of membership in a protected class, a property to any person;

(b) represent to any person, because of membership in a protected class, that a property is not available for sale, rental, inspection, purchase, transfer, assignment, lease or sublease when, in fact, it is available;

(c) Discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, if such person's business includes engaging in residential real estate-related transactions, because of race, color, religion, sex, sexual orientation, national origin, age, disability, ethnic group, Vietnam-era or disabled veteran status, familial status, marital status or ancestry. As used in this section, the term "residential real estate-related transaction" 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;
- B. Secured by residential real estate.

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

(d) Discriminate against any person in the terms or conditions of selling, renting, transferring, assigning, brokering, leasing or subleasing any property, or in furnishing facilities, services or privileges in connection with the ownership, occupancy or use of any property because of membership in a protected class or because of the racial composition or presence of any other protected groups in the area in which the dwelling is located;

(e) Discriminate against any person in the provision of property and casualty, including but not limited to, fire, extended coverage, renter's or homeowner's insurance ("insurance") or insurance related services because of membership in a protected class of a current or prospective purchaser, renter, or occupant, or of other residents in the area or community, by any one or more of the following practices:

(1) Making insurance or insurance related services unavailable or making them available on different terms or conditions;

(2) Refusing to sell or renew or by canceling insurance or an insurance policy;

(3) Varying the terms or conditions under which an insurance policy or insurance related services is available;

(4) Establishing different qualifications, requirements or standards for making insurance or insurance related services available;

(5) Offering different service, facilities or privileges in the provision of insurance or insurance related services;

(6) Discouraging potential applicants from applying for insurance, including but not limited to utilizing different sales and marketing practices, except as provided in Section 790.02 (q);

(7) Evaluating, settling, or paying insurance claims.

(f) Refuse to consider the combined income of both husband and wife for the purpose of extending mortgage credit to a married couple or either member thereof;

(g) Print, publish or circulate, or cause to be printed, published or circulated, any statement or advertisement, or make or cause to be made any written or oral statement, relating to the sale, transfer, assignment, rental, lease, sublease or acquisition of any property or the loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of a property, which indicates any preference, limitation, specification or discrimination based upon protected group membership, or an intention to make any such preference, limitation, specification or discrimination;

(h) Include in any sale, transfer, rental, lease or sublease of a property any restrictive covenant based on protected group membership, or honor or exercise, or attempt to honor or exercise any such restrictive covenant;

(i) Induce or solicit or attempt to induce or solicit including, but not limited to a property listing, sale, rental or transaction by representing that a change has occurred or may occur with respect to the protected class or classes of the area in which the property is located, or induce or solicit or attempt to induce or solicit such listing, sale, or transaction by representing that the actual or anticipated presence of persons of any protected class in the area will or may have results such as:

(1) The lowering of property values;

(2) A change in the composition of the area in which the property is located based upon a protected class or classes;

(3) An increase in criminal or anti-social behavior in the area;

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

(j) Coerce, injure, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person's having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this section;

(k) Discriminate against any person because of protected group status in appraising the value of any property in connection with the sale, brokering or rental or because of the composition of the area based upon protected class or classes;

(l) Deny any person access to, or membership or participation in, any multiple-listing service, real estate brokers' association or other service association or facility relating to the business of selling or renting housing accommodations or commercial property, or to discriminate against any person in the terms or conditions of such access, membership or participation, on account of membership in a protected class;

(m) Refuse to permit, at the expense of a disabled person, reasonable modifications to existing premises occupied or to be occupied by such person, if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, a landlord may – where it is reasonable on a renter's agreement, which can include the establishment of an escrow account, to restore the interior of the premises to the condition that existed prior to the modification, reasonable wear and tear expected;

(n) Refuse to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a disabled person equal opportunity to use and

enjoy a dwelling including associated public and common use areas;

(o) Construct covered multi-family dwellings that do not provide for accessibility and usability for physically disabled persons in compliance with 42 U.S.C. §3604 (f)(3)(c);

(p) Discriminate in any manner against any other person because that person has opposed any unlawful practice defined in this section, or because that person has made a charge, testified, assisted or participated in any manner in any investigation, proceeding or hearing under Sections 4112.01 to 4112.07 of the Ohio Revised Code;

(q) Aid, abet, incite, compel or coerce the doing of any act declared by this section to be an unlawful discriminatory practice, or obstruct or prevent any person from complying with Sections 4112.01 to 4112.11 of the Ohio Revised Code, 42 U.S.C. §3601 et seq., or any order issued pursuant thereto, or attempt to directly or indirectly commit any act declared by this section to be an unlawful discriminatory practice.

(ORC 4412.02 (H), (I), (J)); Ord. 3-09. Passed 1-13-09.)

790.04 EXEMPTIONS.

The provisions of this chapter shall not be construed to:

(a) Prohibit a religious or denominational institution, organization, society or association or nonprofit charitable or education organization that is operated, supervised or controlled by or in connection with a religious organization, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purposes 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 chapter prohibit a private club not in fact 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, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members;

(b) Require any person selling or renting property to modify such property in any way at his or her expense, provided that such person does not refuse to permit reasonable modifications by a disabled person, which are necessary for that person to fully enjoy the premises in which he or she resides, when such modifications are made at the expense of the disabled person, which permission may be reasonably based on the disabled person's promise, pursuant to division (m) of Section 790.03 , to restore the premises to the condition in which it previously existed before granting permission for such modification, nor shall this chapter be construed to relieve any disabled person of any obligation generally imposed on all persons, regardless of disability, in a written lease, rental agreement or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms or conditions, including financial obligations, of the lease, agreement or contract, so long as such distinctions are not based on the disability, or on the landlord's refusal to make reasonable modifications in the lease, agreement or contract conditions for the purpose of denying a disabled person equal opportunity to the use and enjoyment of the premises.

(ORC 4112.02 (K), (N)).

(c) Prohibit the restriction of a sale or rental of a property on the basis of disability when such a property is authorized, approved, financed and subsidized, in whole or in part, for the benefit of disabled persons by a unit of the local, state or federal government, so long as such restrictions do not discriminate against an otherwise qualified disabled person;

(d) Require that a property 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;

(e) Prohibit the application of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a property;

(f) With regard to familial status, apply to properties provided under any state or federal program provided that HUD has determined that such program or housing is exempt, which determination shall be conclusive, or to housing for older persons;

(g) Prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than membership in protected class. (Ord. 3-09. Passed 1-13-09.)

790.05 FAIR HOUSING BOARD; POWERS; DUTIES; RESPONSIBILITIES

The Fair Housing Board shall have the responsibility to administer the provisions of this chapter and to adjudicate complaints alleging violations of any section. The Fair Housing Board shall have and may exercise the following powers to implement the purposes of this chapter:

(a) To hold adjudicative hearings, make findings of fact, issue orders, enforce such orders and seek judicial and/or administrative relief with respect to any such complaints in accordance with the provisions of this chapter;

(b) To subpoena witnesses, compel their attendance, administer oaths, take sworn testimony and, in connection therewith, to require the production for examination of any documents relating to any matter under investigation or in question before the Fair Housing Board, and enforce such powers by proper petition to any court of competent jurisdiction;

(c) To adopt such rules and regulations as the Fair Housing Board may deem necessary or desirable for the conduct of its business and to carry out the purposes of this chapter;

(d) To do such other acts as are necessary and proper to perform those duties with which the Fair Housing Board is charged under this chapter, including the provision of referral services for the community;

(e) To collect, analyze and study the results of investigations made under this chapter and report to the Mayor and City Council on or before January 31 of each calendar year on the working of this chapter for the purposes of advising on and recommending amendments to this chapter;

(f) To conduct a continuing program of education and community organization throughout the City;

(g) To initiate an investigation without the filing of an official complaint, provided a majority of the Fair Housing Board elects to proceed based upon reasonable cause to believe that violations of this chapter are occurring or have occurred. The Fair Housing Board shall have the same powers following this initiated investigation as it has with an investigation based on the filing of a complaint;

(h) To enter into cooperative agreements with other governmental agencies to effectuate the purposes of this chapter;

(i) To refer persons allegedly aggrieved by unlawful discriminatory housing practices to the Ohio Civil Rights Commission or other governmental or private agencies, as appropriate. (Ord. 3-09. Passed 1-13-09.)

790.051 DISCRIMINATION REVIEW COMMITTEE; DUTIES; RESPONSIBILITIES.

(a) There is hereby created a Discrimination Review Committee which shall consist of five members of the Fair Housing Board designated by the Mayor. The Mayor shall further designate one of the Committee members to serve as chairperson. No person shall be appointed to the Discrimination Review Committee who has any interest in any firm, association, company or corporation engaged in the sale or rental of real estate in the City of Sheffield Lake.

(b) The Discrimination Review Committee shall have the responsibility to hear cases brought before the Fair Housing Board and such other duties as may be set forth in this Chapter. The

Discrimination Review Committee shall make recommendations as to findings of fact, as to whether the Respondent has violated Section 790.03, and as to remedial actions that may be appropriate under Section 790.12.

(c) The Fair Housing Board shall promulgate appropriate rules and regulations for the operation of the Discrimination Review Committee.

(Ord. 3-09. Passed 1-13-09.)

790.06 COMPLAINTS.

(a) Any aggrieved person may allege that a violation of Section 790.03 has occurred by filing with the Fair Housing Board, within one (1) year of the alleged violation, a sworn, written complaint setting forth his or her grievance. The complaint shall state the name and address of the aggrieved party (hereinafter the "complainant"), the name and address of the person(s) alleged to have committed a violation of Section 790.03 (hereinafter the "respondent"), a description and address of the property involved in the discriminatory incident and the particular facts thereof and such other information as may be required by the Board. A complaint may be amended at any time prior to the hearing conducted pursuant to Section 790.09, and thereafter only with permission of the Fair Housing Board. Upon the filing of a complaint, the Fair Housing Board shall acknowledge the receipt of the complaint and serve notice thereof to the complainant, which notice shall also contain information as to the time limits, notice of procedural rights and obligations and choice of forum provided in this chapter.

(b) Within ten (10) days after a complaint has been received by the Fair Housing Board, it shall serve or cause to be served, in person or by certified mail, a copy of the complaint on the respondent alleged to have committed a violation of Section 790.03. Along with the service of the complaint, the Fair Housing Board shall advise the respondent, in writing, of his or her procedural rights and obligations under this chapter. The respondent may file a written verified answer to the complaint with the Fair Housing Board within ten (10) days after receipt of notice of said complaint, and thereafter only with permission of the Fair Housing Board.

(c) The Mayor, with the advice of the Fair Housing Board, may appoint a Fair Housing Administrator of the Fair Housing Board. The Administrator shall have such duties and responsibilities as may be provided by the Fair Housing Board, including, but not limited to, receipt and processing of complaints on behalf of the Fair Housing Board.

(Ord. 3-09. Passed 1-13-09.)

790.07 INVESTIGATION OF COMPLAINTS.

(a) Investigations shall be commenced within thirty (30) days after a complaint has been received. Conciliation, pursuant to Section 790.08, shall be attempted beginning with the filing of the complaint and ending with the filing of a charge or a dismissal of the complaint. If conciliation has failed and the investigation has been completed, the Discrimination Review Committee shall determine that:

(1) There are reasonable grounds to believe that a violation of Section 790.03 has occurred, in which case the Fair Housing Administrator shall issue a charge stating the facts forming the basis for the finding of reasonable grounds to believe discrimination occurred or is about to occur under Section 790.03. The Fair Housing Administrator shall then forward the complaint to the Fair Housing Board for a hearing, pursuant to Section 790.09; or

(2) There are no reasonable grounds to believe that a violation of Section 790.03 has occurred, in which case the Fair Housing Administrator shall prepare and issue a written notice of dismissal, within five (5) days of the finding of no reasonable grounds, by serving a copy of the notice of dismissal by certified mail on the parties. The notice of dismissal shall advise the

complainant of his or her right to appeal under this section. Within fourteen (14) days of receipt of notice of dismissal, the complainant may request, in writing, reconsideration by The Discrimination Review Committee of the dismissal. By a majority vote, the Discrimination Review Committee may affirm or reverse the dismissal. If the Discrimination Review Committee reverses, it shall refer the complaint to the Fair Housing Administrator for conciliation and other actions consistent with this chapter.

(b) The Fair Housing Board shall complete the investigation within one hundred (100) days after receipt of the complaint, unless impracticable, in which case the Fair Housing Board shall inform, in writing, the complainant and the respondent of the reasons why the investigation cannot be completed within the time prescribed.

(c) The Fair Housing Board may be assisted in the investigation by a fair housing agency or other organization or person under contract with the City. Upon request of the Fair Housing Board, the Fair Housing Contact of the Fair Housing Board may assign employees of the Fair Housing Board to assist in the investigation.

(Ord. 3-09. Passed 1-13-09.)

790.08 CONCILIATION PROCESS.

(a) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Fair Housing Board, the Fair Housing Board shall, to the extent feasible, engage in conciliation with respect to such complaint. As appropriate, the Administrator shall:

(1) Notify the complainant and respondent of the time, place and date of the conciliations conference at least ten (10) days prior thereto, and both parties shall appear at the conciliation conference in person or by attorney; and

(2) Attempt to resolve the complaint by methods of conferment, conciliation and persuasion with all interested parties and such representatives as the conferences shall be informal and made public unless the parties agree thereto in writing. The terms of conciliation agreed to by the parties shall be reduced to writing and incorporated into a consent agreement to be signed by the parties, subject to approval by the Fair Housing Board. The terms of the conciliation agreement shall be made public, unless the complainant and the respondent agree otherwise and the Fair Housing Board determines that disclosure is not required to further the purposes of this chapter.

(b) A 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. (Ord. 3-09. Passed 1-13-09.)

790.09 HEARINGS.

(a) Within thirty (30) days after the complaint is received by the Fair Housing Board pursuant to division (a)(1) of Section 790.07, the Discrimination Review Committee shall, upon due and reasonable notice to all parties, hold a hearing on the complaint. Parties to the hearing shall be the complainant and respondent and such other persons as the Fair Housing Board may deem appropriate. The hearing shall be open to the public. At the time it determines to hold such hearing, the Fair Housing Board shall serve upon the respondent a summons requiring the attendance of named persons and the production of relevant documents and records.

(b) At any time prior to the conclusion of the hearing, the parties may request the Fair Housing Board to issue subpoenas for individuals or documents in the Fair Housing Board's name. Failure to comply with a summons or subpoena shall constitute a violation of this chapter. The parties may appear before such Board in person or by duly authorized representatives and be represented by legal counsel. The parties shall have the right to present witnesses and to cross-examine

witnesses, and all testimony and evidence shall be given under oath or by affirmation.

(c) If a charge is issued pursuant to Section 790.07 (a)(1), either the complainant or the respondent, in lieu of participating in the administrative hearing process, as outlined in this Section 790.09, may elect to have the case heard in a civil action. Such civil action shall be maintained on behalf of the aggrieved person at the expense of the Fair Housing Board. Such election must be made within twenty (20) days after the receipt of the charge.

(Ord. 3-09. Passed 1-13-09.)

790.10 HEARING DECISIONS.

(a) Within thirty (30) days of the close of the hearing, the Discrimination Review Committee shall deliver its recommendations to the Fair Housing Board. The Fair Housing Board shall have thirty (30) days to adopt, reject or amend the recommendations of the Discrimination Review Committee. The Fair Housing Board's decision shall be rendered in the form of a written order which shall include findings of fact and a statement as to whether the respondent has violated Section 790.03 and such remedial actions as the Fair Housing Board may order pursuant to Section 790.12. The order shall be served upon the parties by certified mail within fifteen (15) days of the date of the decision. The order shall be available for public inspection, and a copy shall be provided to any person upon request and payment of reproduction costs.

(b) If the Discrimination Review Committee is unable to make a recommendation to the Fair Housing Board within the prescribed time frame in subsection (a), the Administrator shall notify the Fair Housing Board, the complainant and the respondent in writing of the reasons for not doing so.

(Ord. 3-09. Passed 1-13-09.)

790.11 INJUNCTIVE RELIEF.

At any time after the filing of a complaint referred to in Section 790.07, the Fair Housing Board may request the City's Director of Law to petition the appropriate court for temporary or preliminary relief pending final determination of the proceedings under this chapter, or as otherwise necessary to carry out the purposes of this chapter, including an order or decree restraining the respondent from doing or causing any act which would render ineffectual any order or action by the Fair Housing Board. (Ord. 3-09. Passed 1-13-09.)

790.12 REMEDIAL ACTIONS.

(a) If the Fair Housing Board finds that the respondent has not violated Section 790.03, its order under Section 790.10 shall dismiss the complaint.

(b) If the Fair Housing Board finds that the respondent has violated Section 790.03, its order under Section 790.10 shall provide for the taking of such remedial action, as it deems appropriate, which may include but not be limited to:

(1) Directing the respondent to cease and desist from violations of Section 790.03 and to take such affirmative steps as necessary to effectuate the purposes of this chapter;

(2) Initiating, at the Fair Housing Board's expense, an appropriate court action for the enforcement of Section 790.03, and for such other or further relief as the court may deem appropriate including, but not limited to, injunctive relief, compensatory damages, punitive damages to the complainant and/or attorney's fees and costs incurred by the complainant and/or the Fair Housing Board and/or the City; such court action shall be required in the event the respondent does not voluntarily comply with remedial actions ordered by the Fair Housing Board;

(3) Initiating proceedings based upon violation of federal or state law and/or regulations;

(4) Initiating proceedings with any contracting agency, in the case of any violation of Section 790.03 by respondent in the course of performing under a contract or subcontract with the State or

any political subdivision or agency thereof, or with the United States of America or any agency or instrumentality thereof, for the purpose of terminating such contract or any portion thereof, or obtaining other relief;

(5) Initiating proceedings with the State of Ohio, where applicable, to revoke, suspend or refuse to renew the license of any person found to have violated any provision of Section 790.03 ;

(6) Directing the respondent to reimburse the complainant and/or the City, as applicable for his or her actual and reasonable expenses incurred and to be incurred as a result of each violation found, including, but not limited to, expenses for moving and temporary storage of household furnishings, additional expenses in connection with the purchase or rental of a dwelling for alternative accommodations, and reasonable attorneys' fees and costs;

(7) Directing the respondent to reimburse the City for its actual reasonable direct expenses incurred and to be incurred as a result of each violation found including reasonable attorneys' fees and costs;

(8) Assessing compensatory damages, as appropriate, or arrange to have adjudicated in court, at the Fair Housing Board's expense, the award of compensatory damages against the respondent;

(9) Assessing civil penalties, as appropriate, or arranging to have adjudicated in court at the Fair Housing Board's expense, the award of punitive damages against the respondent. For purposes of this chapter, civil penalties are defined as penalties assessed against the respondent to vindicate the public interest in an amount:

A. Not exceeding \$50,000 for a first violation; and

B. Not exceeding \$100,000 for any subsequent violation.

(10) Such other further relief as the Fair Housing Board may deem appropriate for enforcement of Section 790.03 .

(c) The Fair Housing Board shall make a final administrative disposition of a complaint within one (1) year after the complaint has been filed, unless it is impracticable to do so, in which case the complainant and respondent shall be notified, in writing, of the reasons why disposition of the complaint cannot be made within the time prescribed.

(d) Nothing herein shall be construed to prevent the City, at its own expense, from initiating appropriate court action on behalf of the complainant in order to enforce the provisions of this chapter.

(e) The complainant and the respondent shall have the right to appeal an adverse final determination by the Board to the Summit County Common Pleas Court pursuant to Chapter 2506 of the Ohio Revised Code, or in such other forum or court of competent jurisdiction as provided by law. (Ord. 3-09. Passed 1-13-09.)

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Detected legislative history

- Ordinances of Sheffield Lake, OH
- ORDINANCES OF THE CITY OF SHEFFIELD LAKE, OHIO
- ORDINANCE NO. 116-84
- ORDINANCES OF SHEFFIELD LAKE
- ord such person full enjoyment of the premises, except that, in the case of a rental, a landlord may – where it is reasonable on a renter’s agreement, which can include the establishme
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- orders, enforce such orders and seek judicial and/or administrative relief with respect to any such complaints in accordance with the provisions of this chapter;
- amended at any time prior to the hearing conducted pursuant to Section 790
- ords
- order which shall include findings of fact and a statement as to whether the respondent has violated Section 790
- order pursuant to Section 790
- order shall be served upon the parties by certified mail within fifteen (15) days of the date of the decision
- order shall be available for public inspection, and a copy shall be provided to any person upon request and payment of reproduction costs
- order or decree restraining the respondent from doing or causing any act which would render ineffectual any order or action by the Fair Housing Board
- order under Section 790
- ordered by the Fair Housing Board;
- order to enforce the provisions of this chapter
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