

Rec'd 1-10-79

Ordinance # 297

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ARTICLE I

Section 1: Short Title.

This ordinance shall be known and may be cited as the Fair Housing Ordinance of Rolla, North Dakota.

Section 2: Purpose and Declaration of Policy

It is hereby declared to be the policy of Rolla and the purpose of this ordinance, in the exercise of Rolla of its police and regulatory powers for the protection of the public safety, for the health, morals, safety, and welfare of the persons in and residing in the City, and for the maintenance and promotion of commerce, industry, and good government in Rolla, to secure all persons living and/or working or desiring to live and/or work in Rolla a 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, sexual orientation, or national origin.

Section 3: 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 2 and the special purposes of the particular provision involved.

Section 4: Definitions.

For the purposes 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. "City Council" means the city council of Rolla.
- (c) "Panel" means a panel comprised of three or more members of the board, designated by the chairman of the board, to investigate and to attempt to conciliate a complaint filed or made under Article V 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 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, or 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 provisions of Chapter 43.23, North Dakota Century Code, or required thereby to be so licensed. "Real estate agent" means any real estate broker, any real estate salesman, 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 or a 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 of 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) "Sexual orientation" means any male or female homosexuality, heterosexuality or bisexuality, by preference or practice.
- (q) "Marital status" means the state of being married, unmarried, divorced, or widowed.
- (r) "Source of income" means any legal source from which a person obtains money.

ARTICLE II

Section 5: Discriminatory Terms.

It shall be an unlawful housing practice and a violation of this ordinance for any real estate broker, salesman, agent, owner, or other person to sell or rent, or offer to sell or rent a 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, sexual orientation, or national origin.

Section 6: Refusal to Negotiate.

It shall be an unlawful real estate practice and a violation of this ordinance for any real estate broker, salesman, agent, owner, or other person to refuse to negotiate for, enter into, or perform any sale or lease of any real property because of the race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin.

Section 7: Withholding Housing.

It shall be an unlawful real estate practice and a violation of this ordinance for any real estate broker, salesman, agent, owner, or other person to represent to any person that any person that any real property is not available for inspection, purchase, sale, lease, or occupancy when in fact it is so available, or otherwise to hold real property from any person because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin.

Section 8: Advertisements, Signs and Notices.

It shall be an unlawful real estate practice and a violation of this ordinance for any real estate broker, salesman, 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 Article II.

Section 9: Refusal of Offers.

It shall be an unlawful real estate practice and a violation of this ordinance for any real estate broker, salesman, 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 the race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin of person making such offer.

ARTICLE III

Section 10: 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 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, educational association, sexual orientation, 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.

Section 11: Licensing.

Every real estate broker shall apply for and obtain a license from the North Dakota Real Estate Commission prior to transacting any business involving real estate as a real estate broker and prior to advertising or assuming to act as such real estate broker, as provided for under North Dakota Century Code 43.23.

ARTICLE IV

Section 12: Representation

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

- (a) Represent that a change has occurred, will occur, or may occur with respect to race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin in the composition of the 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 the race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin in the composition of the owners or occupants in any block, neighborhood, or area will result in the

lowering of property values, or in an increase in criminal or antisocial behavior, or in a decline in the quality of schools in such blocks, neighborhood, or area.

Section 13: Other Violations.

It shall be an unlawful real estate practice and a violation of this ordinance for any real estate broker, salesman, 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 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, sexual orientation, or national origin of such person or persons.
- (c) To deliberately and knowingly refuse examination of copies of any listing of real property in Rolla to any person because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, 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, sexual orientation, 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.

ARTICLE V

Section 14: Fair Housing Board.

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

Section 15: Composition of Fair Housing Board.

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

Section 16: Method 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.

Section 17: Fair Housing Board Duties and Powers.

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

- (a) To act to eliminate unlawful real estate practices that violate this ordinance.
- (b) To act to assure to persons living, working, or desiring to live in 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, sexual orientation, or national origin.
- (c) To receive and investigate complaints alleging unlawful real estate practices in violation of this ordinance.
- (d) To attempt elimination of unfair real estate practices by conciliation, conference, and/or persuasion.
- (e) To hold public hearings in the event that its efforts under the above subsection (d) are ineffective or where it deems that such efforts will be ineffective.
- (f) To instruct the city attorney to commence appropriate court action against those the Board has found to be in violation of this ordinance.
- (g) To recommend to the North Dakota Real Estate Commission suspension and/or revocation of licenses of real estate brokers 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.

Section 18: 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, and
- (3) The alleged facts surrounding the alleged violation of this ordinance;

and such 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 4(c) of this ordinance, to make a prompt investigation in connection 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 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 all proper methods of conciliation 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 hearing on the complaint in accordance with Section 19 below.

Section 19: 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 not be bound by the strict rules of evidence prevailing in courts of law or equity. The

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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 call witnesses on his own behalf and to cross-examine witnesses.

Section 20: Enforcement.

- (a) If, upon all the evidence at the hearing, the Board finds that the person complained of has violated any of the provisions of this ordinance, the Board shall state its findings of fact and shall issue and cause to be served upon such person, an order requiring such person to cease and desist from such violation, and to take such affirmative or other action as, in the judgment of the Board, 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 finds 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 issue and cause to be served upon the complainant an order dismissing the complaint.
- (c) The Board shall retain jurisdiction of the case until it is satisfied the person to whom the order was directed has complied. The order of the Board and its findings of fact shall be issued within thirty (30) days after the filing of the complaint and shall be delivered to the complainant, the person charged, and the mayor of the city.
- (d) The Board shall be empowered at the conclusion of the proceedings held under Section 19 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 ordinance the fine provided for in Article VII below.
 - (2) To apply to any court of competent jurisdiction for:
 - (i) An order restraining any person from violating any provision of this ordinance;
 - (ii) Such other future relief as may seem to the court appropriate for the enforcement of this ordinance and for the elimination of violations hereof.
 - (3) To petition or institute proceedings with the North Dakota Real Estate Commission for the purpose of causing the Commission to revoke, suspend, or refuse to renew the license granted by such Commission to any real estate broker or real estate salesman found to have violated any provision of this ordinance.
- (e) The Board is also empowered at the conclusion of such proceedings to recommend to the North Dakota Real Estate Commission suspension and/or

revocation of the broker's license of any broker licensed by the North Dakota Real Estate Commission against whom a complaint shall have been filed and who shall have been a party to any proceedings thus filed and found guilty of violating any applicable provisions of this ordinance.

Section 21: 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.

ARTICLE VI

Section 22: Remedies.

Any person aggrieved in any manner by the violation of any provision of this ordinance who has exhausted the remedies provided in sections 18 and 19 of this ordinance may apply to any court of competent jurisdiction for appropriate relief from such violation, including:

- (a) An order compelling compliance with this ordinance;
- (b) An order to prohibit any person found by the court to have violated any provision of this ordinance from the sale, lease, exchange, transfer, conveyance, or assignment of any 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 or fails to perform such contract;
- (d) Compensatory damages and, if appropriate, punitive damages;
- (e) Such other and further relief as may seem appropriate to the court for the enforcement of this ordinance and the elimination of violations thereof.

Section 23: 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 where the owner of said property is one of the parties complained of.

Section 24: Judicial Review of Board Order.

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

ARTICLE VII

Section 25: Fines.

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

ARTICLE VIII

Section 26: Severability.

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

Section 27. Effective date.

This ordinance shall be in full force and effect and take effect immediately upon its final passage and the publication of its title and penalty clause.

First reading: Jan. 2, 1979

Second reading and final passage: Jan. 10, 1979


Approval: Jan. 10, 1979



DONALD ENGBRECHT

Mayor, City of Rolla, N.D.

ATTEST:


 CAROLINE SIMMERING
 City Auditor.

Publication of title and
 penalty clause: Feb. 1, 1979