

CITY OF PALM COAST ORDINANCE NO. 2005-30
Fair Housing Ordinance

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, PROHIBITING DISCRIMINATION IN HOUSING BASED UPON RACE, COLOR RELIGION, SEX, FAMILIAL STATUS, HANDICAP, OR NATIONAL ORIGIN; PROVIDING FOR DEFINITIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR UNLAWFUL ACTS OF DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING, DISCRIMINATION OF BROKERAGE SERVICE; PROVIDING FOR ADMINISTRATION; PROVIDING FOR PROCEDURES; PROVIDING FOR COMPLAINTS; PROVIDING FOR HEARINGS; PROVIDING FOR REMEDIES; PROVIDING FOR PROCEDURES; PROVIDING FOR REPORTS; PROVIDING FOR ADOPTION OF ADMINISTRATIVE RELIEF; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA:

SECTION 1. LEGISLATIVE PURPOSE. It is the purpose of this Ordinance to declare the policy of the City of Palm Coast, in the exercise of its police power for the public safety, health, morals and welfare, to assure equal opportunity to obtain adequate housing by all persons regardless of race, color, sex, to include, but not be limited to, sexual orientation, religion, national origin, familial status, or handicap, and, to that end, to eliminate discrimination in housing. The protections afforded against discrimination on the basis of familial status as set forth in this Ordinance shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

SECTION 2. DEFINITIONS.

- (a). *Council* means the City Council of the City of Palm Coast, Florida.
- (b). *Discriminatory housing practice* means an act that is unlawful under this Ordinance.
- (c). *Dwelling* means any building, structure, or portion hereof which is occupied as, or designated or intended for occupancy as a residence by one (1) or

more families, and any vacant land which if offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(d). *Familial status* means one (1) or more individuals (who have not attained the age of eighteen (18) years) being domiciled with:

- (1). a parent or another person having legal custody of such individual or individuals; or
- (2). the designee of such parent or other person having such custody with the written permission of such parent or other persons.

(e). *Family* includes a related group of persons and a single individual in appropriate circumstances.

(f). *Handicap* means that a person has physical or mental impairment which is recognized under the *Americans with Disabilities Act* and that he/she has a record of having, or is regarded as having, such physical or mental impairment.

(g). *Person* includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, point-stock companies, trusts, unincorporated organizations, trustees, trustee in bankruptcy, receivers, and fiduciaries by whatever name.

(h). *To rent* includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the resident.

SECTION 3. EXEMPTIONS.

(a). The provisions of this Ordinance, except in Section 4(b), shall not apply to:

- (1). any single-family house sold or rented by a *bona fide* private individual owner if:
 - (i). the owner does not own more than three (3) such single-family houses at any one time;
 - (ii). in the case of the sale of a single-family house, the owner was not the most recent resident at the time of such sale, the exemption granted by this Subsection shall apply only with respect to one (1) such sale within any twenty-four (24) month period;

(iii). the owner does not own 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 from the sale or rental or more than three (3) single-family houses at any one time;

(b). The sale or rental of any single-family house shall be excepted from the application of this Ordinance only if such house is sold or rented:

(i). without the use of any manner of 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

(ii). without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this Ordinance, provided, however, that nothing in this Ordinance shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

(c). The provisions of this Ordinance shall not apply to two (2) 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.

(d). For the purposes of this Ordinance, a person shall be deemed to be in the business of selling or renting dwellings if:

(1). he or she has, within the preceding twelve (12) months participated as principle in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2). he or she has, 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, or

(3). he or she is the owner of any dwelling designated or intended for occupancy by, or occupied by, five (5) or more families.

(e). Nothing in this Ordinance shall prohibit a religious organization, association, society, or any non-profit 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, sex, to include, but not be limited to, sexual orientation, religion, national origin, familial status, or handicap.

(f). Nothing in this Ordinance shall prohibit a private club, not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings from 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.

(g). Nothing in this Ordinance requires any person renting or selling a dwelling to modify, alter, or adjust the dwelling in order to provide a physical accessibility except as otherwise required by law.

SECTION 4. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

(a). Except as otherwise provided in this Ordinance, it is prohibited and unlawful to refuse to sell or rent after making *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, to include, but not be limited to, sexual orientation, religion, national origin, familial status, or handicap.

(b). Except as otherwise provided in this Ordinance, it is prohibited and unlawful to discriminate against any person in the terms, conditions, or facilities in connection therewith, because of race, color, sex, to include, but not be limited to, sexual orientation, religion, national origin, familial status, or handicap.

(c). Except as otherwise provided in this Ordinance, it is prohibited to 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, imitation, or discrimination based on race, color, to include, but not be limited to, sexual orientation, religion, national origin, familial status, or handicap, or an intention to make any such preference, imitation, or discrimination.

(d). Except as otherwise provided in this Ordinance, it is prohibited and unlawful to represent to any person because of race, color, sex, to include, but not be limited to, sexual orientation, religion, national origin, familial status, or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e). Except as otherwise provided in this Ordinance, it is prohibited and unlawful for profit to induce or attempt to induce 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, sex, to include, but not be limited to, sexual orientation, religion, national origin, familial status, or handicap.

SECTION 5. DISCRIMINATION IN THE FINANCING OF HOUSING.

Except as provided in this Ordinance, it is prohibited and unlawful 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 commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, construction, improving, repairing, or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, financial assistance, because of race, color, sex, to include, but not be limited to, sexual orientation, religion, national origin, familial status, or handicap of such person or any person associated with him or her 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.

SECTION 6. DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICE.

It is prohibited and unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate broker's organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership, or participation on account of race, color, sex, to include, but not be limited to, sexual orientation, religion, national origin, familial status, or handicap.

SECTION 7. ADMINISTRATION.

(a). The City Manager shall administer the provisions of this Ordinance.

(b). The City Council may delegate its functions, duties, and powers to an appointed board, including 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 Ordinance.

(c). The City Manager, or designee, shall:

- (1). implement the provisions of this Ordinance and rules and regulations promulgated hereunder and all ordinances, codes, rules, and regulations pertaining to housing and discrimination;
- (2). receive, initiate, and investigate any and all complaints alleging violations of this Ordinance and take appropriate action to eliminate, conciliate, prevent, and/or initiate prosecution of such violations;
- (3). provide assistance from time-to-time 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 Ordinance with Federal, State, County and other agencies and entities involved in reducing housing discrimination; and
- (6). take other informational, educational, or persuasive actions to implement the purposes of this Ordinance.

SECTION 8. PROCEDURE.

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

(b). Upon receipt of a complaint, the City Council or its appointed board shall serve upon the individual charged with a violation (hereinafter referred to as the respondent), the complaint and a written summary 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 City Council or a board appointed by the City Council to hear such matters.

(c). The City Manager, or designee, shall investigate the complaint.

(d). Within sixty (60) days from the date of the completion of the investigation, the City Council or its appointed board shall hear evidence pertaining to the complaint at a quasi-judicial hearing and issue a written order.

(e). Copies of the decision shall be provided to the complainant and the respondent.

(f). If the appointed board hears the matter, its decision may be appealed to the City Council in a *de novo* proceeding by filing a written appeal with the City Clerk within ten (10) days of the issuance of the written order.

(g). The City Council or its appointed board may determine:

- (1). that the complaint lacks ground upon which to base action for violation of this Ordinance, or
- (2). that the complaint has been adequately dealt with by conciliation of the parties, or
- (3). that the case warrants filing charges against the offending party in an appropriate forum. In some cases, both conciliation and adjudicative orders, or both adjudicative orders and initiation of judicial or administrative action may be indicated.

(h). If the City Council or its appointed board issues an adjudicative order to correct, adjust, conciliate, prevent, or prohibit any unlawful act prohibited by this Ordinance, and the respondent refuses or fails to comply with or obey such adjudication, the City Council or its appointed board shall consider initiating appropriate action or refer the matter to an appropriate agency.

SECTION 9. PROCEDURES RELATING TO HEARINGS.

(a). When a hearing is required before the City Council or its appointed board, the City Council or its appointed board shall schedule the hearing and serve upon all interested parties a notice of time and place of the hearing. The hearing shall be held promptly, but not less than fifteen (15) days after service of such notice.

(b). The parties, or their authorized counsel, may file such statements with the City Council or its appointed board, prior to the hearing date, as they deem necessary in support of their positions. The parties may appear before the City Council or its appointed board 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 City Council or its appointed board shall not be bound by strict rules of evidence prevailing in courts of law or equity, but due process shall be observed. The City Council or its appointed board shall keep a full public record of the hearing. The constitutional rights of the respondent not to incriminate himself or herself shall be observed.

(c). The City Council or its appointed board shall make a finding of fact, and determination of action to be taken.

(d). The City Council or its appointed board may issue subpoenas to compel access to or the production or appearance of premises, records, documents, individuals, and other evidence or possible sources of evidence relative to complaints.

(e). Upon written application to the City Council or its appointed board, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the City. 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 this request.

(f). Witnesses summoned by the subpoena of the City Council or its appointed board shall be entitled to the same witness and mileage fees as 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 the respondent.

(g). Within ten (10) days after service of a subpoena upon any person, such person may petition the City Council or its appointed board to revoke or modify the subpoena. The City Council or its appointed board 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 relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(h). In case of refusal to obey a subpoena, the City Council or its appointed board or the person at whose request it was issued may petition for its enforcement in the appropriate court.

SECTION 10. OTHER REMEDIES. Nothing in this Ordinance shall prevent any person from exercising any right or seeking any remedy to which he or she might otherwise be entitled, or from filing of any complaint with any other agency or any court having proper jurisdiction. The City may pursue any legal remedy or enforcement proceeding available to the City under controlling law.

SECTION 11. REPORT TO FLORIDA REAL ESTATE COMMISSION. If a real estate broker, a real estate salesman, or an employee thereof has been found to have committed an unlawful practice in violation of this Ordinance, or has failed to comply with an order issued by the City Council or its appointed board, the City Council or its appointed board shall, in addition to the other procedures set forth herein, report the facts to the Florida Real Estate Commission.

SECTION 12. ADMINISTRATIVE RULES. The City Manager is hereby authorized to adopt administrative rules that he or she deems necessary and appropriate to implement the provisions of this Ordinance.

SECTION 13. CONFLICTS. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed and the Code codifier is hereby directed to take all actions necessary to implement the provisions of this Ordinance in that regard.

SECTION 14. CODIFICATION. The provisions of this Ordinance shall become and be made a part of the *Code of Ordinances of the City of Palm Coast, Florida* and the Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 13, 14, 15 and 16 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

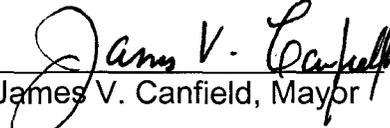
SECTION 15. SEVERABILITY. If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

SECTION 16. EFFECTIVE DATE. This Ordinance shall take immediate effect upon enactment.

Approved on first reading the 21st day of June, 2005.

ADOPTED on second reading after due public notice and public hearing the 5th day of July, 2005.

CITY OF PALM COAST


James V. Canfield, Mayor


Daniel H. Davis, Senior Staff Assistant for
Clare M. Hoent, City Clerk

**Flagler/Palm Coast
NEWS-TRIBUNE**

Published Each Wednesday and Saturday
Flagler County, Florida

**State of Florida,
County of Flagler:**

Before the undersigned authority personally appeared

Kevin Hancock

Who, on oath says that he is

Classified Sales Manager

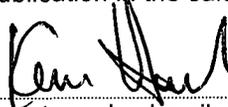
of The Flagler/Palm Coast NEWS-TRIBUNE, a
twice weekly newspaper published Flagler County,
Florida; that the attached copy of advertisement,
being a

Notice of Public Hearing

in the matter of Fair Housing Ordinance
in the Court

was published in said newspaper in the issues
June 25, 2005

Affiant further says that The Flagler/Palm Coast
News-Tribune is a newspaper published in said
Flagler County, Florida, and that the said newspaper
has heretofore been continuously published in said
Flagler County, Florida, each Wednesday and
Saturday and has been entered as second-class mail
matter at the post office in Flagler Beach, in said
Flagler County, Florida, for a period of one year next
preceding the first publication of the attached copy of
advertisement; and affiant further says that he has
neither paid nor promised any person, firm or
corporation any discount, rebate, commission or
refund for the purpose of securing this advertisement
for publication in the said newspaper.



Sworn to and subscribed before me

this 27th day of June

A.D. 2005



ANITA MARIE SAUNDERS
Notary Public, State of Florida
My comm. expires Aug. 30, 2007
Comm. No. DD 222131

LEGAL ADVERTISEMENT

**CITY OF PALM COAST
NOTICE OF PUBLIC HEARING
2005-XX**

FAIR HOUSING ORDINANCE
Notice is hereby given that a
public hearing will be held before
the City Council of the City of
Palm Coast on July 5, 2005 begin-
ning at 6:30 p.m. in Council Cham-
bers at 305 Palm Coast Parkway
North, Palm Coast, Florida. The
purpose of the hearing is to hear
all interested parties and act upon
the adoption of Ordinance Num-
ber 2005-xx entitled "AN ORDI-
NANCE OF THE CITY COUNCIL
OF THE CITY OF PALM COAST,
FLORIDA, PROHIBITING DIS-
CRIMINATION IN HOUSING
BASED UPON RACE, COLOR, RE-
LIGION, SEX, FAMILIAL STA-
TUS, HANDICAP, OR NATIONAL
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TION OF BROKERAGE SERVICE;
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DURES; PROVIDING FOR COM-
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PROCEDURES; PROVIDING FOR
REPORTS; PROVIDING FOR
ADOPTION OF ADMINISTRA-
TIVE RELIEF; PROVIDING FOR
CONFLICTS; PROVIDING FOR
CODIFICATION; PROVIDING
FOR SEVERABILITY AND PRO-
VIDING FOR AN EFFECTIVE
DATE."

This ordinance is available for
review at Palm Coast City Hall,
Two Commerce Boulevard, Palm
Coast, FL

In accordance with the Ameri-
cans with Disabilities Act, persons
needing assistance to participate
in these proceedings should con-
tact Clare M. Hoenl, City Clerk, at
386-986-3715 at least 48 hours prior
to the meeting.

If any person decides to appeal
any decision made by Council
with respect to any matter consid-
ered at such hearing, he or she will
need a record of the proceedings,
and for such purpose, he or she
may need to ensure that a verba-
tim record of the proceedings is
made, which record includes the
testimony and evidence upon
which the appeal is to be based.
Legal NT1700, June 25, 2005 1t.