

BILL NO. 69-16
7-24-17 Amended

ORDINANCE NO. 18-17

AN ORDINANCE ENACTING A HUMAN RIGHTS ORDINANCE FOR ST. JOSEPH
COUNTY, INDIANA

IT IS HEREBY ORDAINED BY THE COUNTY COUNCIL OF ST. JOSEPH COUNTY,
INDIANA, THAT:

SECTION 1.

Chapter 37: Human Rights Ordinance is added to Title III: Administration of the St. Joseph
County Code. Title III, Chapter 37: Human Rights Ordinance reads as follows:

This Chapter shall be known as the St. Joseph County Human Rights Ordinance.

§ 37.01. – Purpose.

- (a) It is the public policy of St. Joseph County to provide all citizens equal opportunity for education, employment, access to public conveniences and accommodations, and acquisition through purchase or rental of real property including, but not limited to, housing, and to eliminate segregation or separation based on race, religion, color, sex, disability, national origin, ancestry, sexual orientation or gender identity, and familial status in housing, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property including but not limited to housing are hereby declared to be civil rights.
- (b) The practice of denying these rights to properly qualified persons by reason of race, religion, color, sex, disability, national origin, ancestry, sexual orientation or gender identity, or familial status in the case of housing of such person is contrary to the principles of freedom and equal opportunity, and is contradictory to the objectives of the public policy of this County and shall be considered discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, disability, national origin, ancestry, sexual orientation or gender identity, or familial status in the case of housing, through reasonable methods is the purpose of this Chapter.
- (c) It is also the public policy of this County to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders and lending institutions from unfounded charges of discrimination.

§ 37.02. – Prohibited Conduct.

- (a) No person shall discriminate against any other person in education, employment, access to public conveniences and accommodations based on race, color, sex, disability, national origin, ancestry, sexual orientation or gender identity. Nor shall any person deny any other person equal opportunity for education, employment, access to public conveniences and accommodations based on race, religion, color, sex, disability, national origin, ancestry, sexual orientation or gender identity. Such discrimination or denial of equal opportunity shall be an unlawful practice.
- (b) No person shall refuse to sell or to rent after the making of a bona fide offer; refuse to negotiate for the sale or rental or otherwise make unavailable or deny a dwelling; or otherwise discriminate against any person in the terms, conditions, privileges of sale or rental of a dwelling, or in providing services or facilities in connection with the sale or rental of a dwelling because of a person's race, color, religion, sex, familial status, disability, national origin, sexual orientation or gender identity. Conduct in violation of this section shall be an unlawful practice.
- (c) No person may coerce, intimidate, threaten or interfere with any other person:
 - (1) In the existence or enjoyment of any right granted or protected by this chapter; or
 - (2) Because the person has exercised or enjoyed, or has aided or encouraged another person in the exercise or enjoyment of, any right granted or protected by this chapter.
- (d) No person shall commit any other discriminatory practices as defined in any other section of this Chapter.
- (e) Protections in this Chapter against discriminatory practices with regard to sexual orientation, gender identity, familial status, or any other class which is not already protected under applicable state and/or federal law shall not apply to decisions of a person which is a religious society or order, association, organization, institution or related entity when such protections affect the definition, advancement of the mission(s), practice(s) or belief(s) of such religious society or order, association, organization, institution or related entity charged with the implementation of such decision or decisions, and no requirement of this Chapter shall compel any person to act in a manner contrary to that which has been granted specific protection by the United States Supreme Court in *Boy Scouts of America and Monmouth Council, et al. v. Dale*, 530 U.S. 640 (2000).
- (f) The protections in this Chapter against discriminatory practices regarding sexual orientation or gender identity in employment shall not be construed to require that health

care plans, insurance, pension, or similar additional benefits provided by employers or benefitting the spouses of employees be extended to non-married domestic partners of any employee.

(g) This Chapter shall be construed broadly to effectuate its purpose.

§ 37.03. – Definitions.

- (a) The term “employee” shall mean any person employed by another for wages or salary; provided, that it should not include any person employed by his or her parents, spouse or child.
- (b) The term “employer” shall include St. Joseph County, or any department thereof, and any person having six (6) or more employees within the State of Indiana and doing business within the County, except that the term does not include:
 - (1) Any bona fide private membership club (other than a labor organization) which is exempt from taxation under Section 501(c) of the Internal Revenue Code of 1954;
 - (2) Any school, educational or charitable institution owned or conducted by or affiliated with a church or religious institution;
 - (3) Any office, officer, board, commission, department, division, bureau, committee, fund, agency, and, without limitation by reason of any enumeration herein, any other instrumentality of the State of Indiana, any hospital, any penal institution and any other institutional enterprise and activity of the State of Indiana, wherever located; the universities supported in whole or in part by State funds; and the Judicial Department of the State of Indiana.
- (c) The term “employment agency” shall mean any person undertaking, with or without compensation, to procure, recruit, refer or place employees.
- (d) The term “labor organization” shall mean any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or of mutual aid or protection in connection with employment.
- (e) The term “education institution” shall mean all public and private schools and training centers except those affiliated with religious institutions, only insofar as they may give preference to members of their religious group in selecting their students, except that they shall not discriminate on the basis of race, color or national origin.
- (f) The term “discriminatory practice” shall mean the exclusion of a person by another person from equal opportunity or a system which excludes persons from equal opportunity in employment, education, public conveniences and accommodations

because of race, religion, color, sex, disability, national origin, ancestry, sexual orientation or gender identity. A discriminatory practice also means the refusal to sell or rent after the making of a bona fide offer; the refusal to negotiate for the sale or rental or otherwise making unavailable or denying, or otherwise discriminating against any person in the terms, conditions, privileges of sale or rental of a dwelling, or in providing services or facilities in connection with the sale or rental of a dwelling because of a person's race, color, religion, sex, familial status, disability, national origin, sexual orientation or gender identity.

A "discriminatory practice" shall include the following:

- (1) Advertising for the sale or rental of a dwelling in a manner that indicates any preference, limitation, or discrimination because of race, color, religion, sex, disability, familial status, national origin, sexual orientation or gender identity.
- (2) Falsely representing that a dwelling is not available for inspection, sale, or rental based on race, color, religion, sex, disability, familial status, national origin, sexual orientation or gender identity.
- (3) Coercion, intimidation, threats, or interference with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by §§ 37.04, 37.05, 37.06, 37.07, or 37.08 of this Chapter;
- (4) Blockbusting based on representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, disability, familial status, national origin, sexual orientation or gender identity;
- (5) Discrimination because of race, color, religion, sex, disability, national origin, sexual orientation or gender identity, or familial status by persons or entities whose business includes engaging in residential real estate transactions in the making of a loan or the granting of financial assistance for residential real estate, in the selling, brokering or appraisal of residential real estate, or by the denial of access to or participation in a multiple-listing service or other real estate broker organization or services.

Every discriminatory practice relating to the acquisition or sale of real property, education, public accommodations or employment shall be considered unlawful unless it is specifically exempted by this Chapter.

- (g) "Public accommodation" shall mean any establishment, organization or authority which caters to or offers its services or facilities or goods to the general public, including, but not limited to, motels, hotels, theaters, stores, public restaurants, public library services, and public recreational services and facilities.
- (h) "Charging party" shall mean any individual charging on his own behalf to have been personally aggrieved by a discriminatory practice or the Director of the Indiana Civil Rights Commission with the approval of the full Indiana Civil Rights Commission charging that a discriminatory practice was committed against a person other than himself or a class of people in order to vindicate the public policy of St. Joseph County as defined in §§ 37.01, 37.04, 37.05, 37.06, 37.07, or 37.08 of this Chapter.
- (i) "Charge" shall mean any written grievances filed by a charging party with the Indiana Civil Rights Commission, according to the policies and procedures required by the Indiana Civil Rights Commission.
- (j) "Respondent" shall mean any person against whom a charge is filed.
- (k) "Consent Agreement" shall mean a formal agreement entered into in lieu of adjudication.
- (l) "Affirmative action" shall mean those acts which the Indiana Civil Rights Commission deems necessary to assure compliance with the St. Joseph County Human Rights Ordinance.
- (m) The term "sex" as it applies to segregation or separation in this Chapter shall apply to all types of employment, education, public accommodation and housing. However:
 - (1) It shall not be a discriminatory practice for educational institutions to maintain separate restrooms and locker rooms for the sexes. Educational institutions may during public events designate bathrooms (male and female restrooms) as "adult only", "family only", or "single user only";
 - (2) It shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and
 - (3) It shall not be a discriminatory practice for a private or religious educational institution to continue to maintain and enforce a policy of admitting students of one (1) sex only, or to continue to maintain and enforce a policy of single-sex housing.

- (n) "Disabled" or "disability" means, with respect to a person:
- (1) A physical or mental impairment that substantially limits one (1) or more of the person's major life activities;
 - (2) A record of having an impairment described in subdivision (1); or
 - (3) Being regarded as having an impairment described in subdivision (1).

The term does not include current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act [21 U.S.C. § 802]).

- (o) "Person" means one (1) or more individuals, partnerships, associations, organizations, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, receivers, fiduciaries and other organized groups of persons.
- (p) "Familial status" means that the person who is the subject of discrimination is:
- (1) Pregnant;
 - (2) Domiciled with an individual younger than eighteen (18) years of age in regard to whom the person:
 - (A) Is the parent or legal custodian; or
 - (B) Has the written permission of the parent or the legal custodian for domicile with that person; or
 - (3) In the process of obtaining legal custody of an individual younger than eighteen (18) years of age.
- (q) "To rent" includes to lease, to sublease, to let, or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.
- (r) "Dwelling" means:
- (1) Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residency by one (1) or more families; or
 - (2) Any vacant land that is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure described by subdivision (1).
- (s) "Secretary" means the Secretary of Housing and Urban Development.

- (t) "Gender identity" means an individual having or being perceived as having a gender-related self-identity, self-image, appearance, expression or behavior different from those characteristics traditionally associated with the individual's assigned sex at birth.
- (u) "Sexual orientation" means an individual's actual or perceived identity or practice as a lesbian woman, gay man, bisexual person or heterosexual person.

§ 37.04. – Prohibited Notices, Statements, Advertisements, or Representations in Housing.

- (a) A person may not make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, national origin, sexual orientation or gender identity or an intention to make such a preference, limitation, or discrimination.
- (b) A person may not represent to any person because of race, color, religion, sex, disability, familial status, national origin, sexual orientation or gender identity that a dwelling is not available for inspection, for sale, or rental when the dwelling is so available.
- (c) A person may not, for profit, induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person or persons of a particular race, color, sex, disability, religion, familial status, national origin, sexual orientation, or gender identity.

§ 37.05. – Disability Discrimination in Housing.

- (a) A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter, nor may a person 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 the dwelling because of a disability of:
 - (1) The buyer or renter or person;
 - (2) A person residing in or intending to reside in the dwelling after the dwelling is sold, rented, or made available; or
 - (3) Any person associated with the buyer or renter or person.
- (b) For purposes of this section only, discrimination includes the following:
 - (1) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises.

- (2) A refusal to make reasonable accommodations in rules, policies, practices or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.
- (3) In connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:
 - (A) The public use and common use parts of the dwellings are readily accessible to and usable by disabled persons;
 - (B) All the doors are designed to allow passage into and within all premises within the dwellings and are sufficiently wide to allow passage by disabled persons in wheelchairs; and
 - (C) All premises within the dwellings contain the following features of adaptive design:
 - 1. An accessible route into and through the dwelling;
 - 2. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - 3. Reinforcements in bathroom walls to allow later installation of grab bars; and
 - 4. Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.
- (c) As used in subsection (b), "covered multi-family dwellings" means:
 - (1) Buildings consisting of four (4) or more units if the buildings have one (1) or more elevators; and
 - (2) Ground floor units in other buildings consisting of four (4) or more units.
- (d) Compliance with the rules of the fire prevention and building safety commission that incorporate by reference the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people (ANSIA117.1) satisfies the requirements of subsection (b)(3)(C).
- (e) This section does not require that 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.

- (a) As used in this section, "residential real estate related transaction" means the following:
 - (1) Making or purchasing loans or providing other financial assistance:
 - (A) To purchase, construct, improve, repair, or maintain a dwelling; or
 - (B) Secured by residential real estate.
 - (2) Selling, brokering, or appraising residential real property.
- (b) A person whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available, or in the terms or conditions of a real estate related transaction because of race, color, religion, sex, disability, familial status, or national origin. [Ind. Code § 22-9.5-5-6].

§ 37.07. – Brokers' Organizations, Services, or Facilities.

A person may not deny any person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in the terms or conditions of access, membership, or participation in such an organization, service, or facility because of race, color, religion, sex, handicap, familial status, or national origin. [Ind. Code § 22-9.5-5-7].

§ 37.08. – Elderly Housing Exception to Discrimination Based on Familial Status.

The denial of housing rights and opportunities based on familial status as prohibited by this Chapter shall not apply to housing intended for and solely occupied by persons over sixty-two (62) years of age or older or which is designed and operated to assist elderly persons under a federal or state program.

If there are persons living in such housing under age sixty-two (62) this exception applies provided that:

- (1) All occupants after September 13, 1988 are at least sixty-two (62) years old;
- (2) Any unoccupied units are reserved for occupancy by persons at least sixty-two (62) years old; and
- (3) Any persons under age sixty-two (62) occupying said housing after September 13, 1988 are employees of the housing and their family members residing in the same unit, and such employees perform substantial duties directly related to the management or maintenance of the housing.

The determination of whether any housing unit falls within the exception created by this section shall be made by the Indiana Civil Rights Commission and shall be consistent with any determinations already made by the Secretary of Housing and Urban Development.

§ 37.09. – Single-Family and Small Unit Exception.

- (a) Except for the prohibition against the making, printing or publishing of a sale or rental notice containing discriminatory preference or limitation as set forth in § 37.04(a) of this Chapter, no other prohibition concerning housing or housing related practices shall apply to:
- (1) Any single-family house sold or rented by an owner: Provided, that such private individual owner does not own more than three (3) such single-family houses at any one time: Provided further, that in the case of the sale of any such single-family 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 by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period: Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one time: Provided further, that after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person or (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 2-128.1(a) 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 necessary to perfect or transfer the title; or
 - (2) Rooms or units in dwelling 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 residence.

- (b) The determination of whether any housing unit falls within the exception created by this section shall be made by the Commission and shall be consistent with any determinations already made by the Secretary of Housing and Urban Development.

§ 37.10. – Discrimination in Performance of County Contracts.

Every contract to which the County is a party, including franchises granted to the public utilities, shall contain a provision requiring the contractor and his subcontractor not to discriminate against any employee or applicant for employment who is to be employed in the performance of such contracts with respect to his hire, tenure, terms, conditions or privileges of employment, because of his race, religion, color, sex, handicap, national origin, or ancestry. Breach of this covenant may be considered a material breach of the contract.

§ 37.11. – Designated Enforcement Agency.

St. Joseph County designates the Indiana Civil Rights Commission as the designated agency to enforce the St. Joseph County Human Rights Ordinance, but reserves the right to designate an alternative local agency to enforce the St. Joseph County Human Rights Ordinance at such a time as the alternative local agency would be in existence and eligible to carry out that enforcement.

SECTION 2.

This ordinance shall be in full force and effect from and after its enactment, publication as required by law, and full execution of any conditions or Commitments placed upon the approval.

Rafael Portor

Member, St. Joseph County Council

FILED
JAN 24 2017
AUDITOR
ST JOSEPH COUNTY

1st READING 10-13-16
PUBLIC HEARING 2-14-17
2nd READING
NOT APPROVED
REFERRED 10/17/CT
PASSED
6-2
Against Root & Tolley
Absent O'Brien

FILED
JAN 24 2017
COUNTY COUNCIL
ST. JOSEPH COUNTY INDIANA
M. M. O'Brien

AMENDMENT NO. _____

ORDINANCE NO. 18-17

AN ORDINANCE ENACTING A HUMAN RIGHTS ORDINANCE FOR ST. JOSEPH COUNTY, INDIANA
PETITIONERS: RAFAEL MORTON, MARK A. CATANZARITE AND DIANA L. HESS

This bill came before the St. Joseph County Council the 14 th day of February, 2016, and was voted to duly pass/not to pass, this Ordinance.

Rafael Morton
President, County Council

VOTES

YES 6

NO 2

Absent - O'Brien
ATTEST: Cool & Tellovan

[Signature]
Auditor, St. Joseph County

Presented by me to the Board of Commissioners of the County of St. Joseph, Indiana, this 15 th day of February, 2016, at the hour of 3 o'clock P M.

This Ordinance approved and signed by the Board of County Commissioners of St. Joseph County, Indiana, on the 21 th day of February, 2016, at the hour of 10 o'clock A M.

[Signature]
President, County Commissioners

[Signature]
Vice President, County Commissioners

[Signature]
Member, County Commissioners