

CHAPTER 515
Fair Housing Code

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CROSS REFERENCES

Ohio Civil Rights Commission - see Ohio R.C. Ch. 4112
Open meetings - see ADM. Ch. [109](#)

515.01 STATEMENT OF POLICY.

It is hereby declared to be the continuing policy of the City of Canton, to do all things and take such action as may be necessary and proper, within constitutional limitations, to assure all its residents of equal and fair housing opportunities regardless of race, color, religion, national origin, sex, ancestry, handicap, familial status, military status, sexual orientation or gender identity. (Ord. 153-2012. Passed 9-24-12.)

515.02 DEFINITIONS.

As used in this chapter, the following terms shall have the meanings as set forth herein:

(a) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint- stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries. It also includes, but is not limited to any owner, lessor, assignor, builder, manager, broker, salesman, agent, employee, lending institution, and the City of Canton and any authority, agency, board, commission, officer or employee thereof.

(b) "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 occupant.

(c) "The Commission" means the City of Canton Fair Housing Commission, as created by Section [515.05](#).

(Ord. 77-2002. Passed 4-15-02.)

(d) "Discrimination" or "to discriminate" means and includes any act, practice or course of conduct constituting or resulting in any inequality of treatment of any person because of race, religion, color, ancestry, national origin, sex, handicap, familial status, military status, sexual

orientation or gender identity in the area of matters relating to housing, and includes any act tending to segregate or separate persons according to the foregoing characteristics.

(Ord. 153-2012. Passed 9-24-12.)

(e) "Unlawful discriminatory housing practice" means any activity or act prohibited by Section [515.03](#).

(Ord. 77-2002. Passed 4-15-02.)

(f) "Housing accommodations" or "housing" or "dwelling" shall be interchangeable terms, which for purposes of this chapter shall mean any building or structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied as the home residence or sleeping place of one or more individuals, groups, or families whether or not living independently of each other; and any vacant land offered for sale or for lease for actual or potential residential development. It also includes any housing accommodations or housing held or offered for sale or rent by a real estate broker, salesman or agent, or by any other person pursuant to authorization of the owner, by the owner, or by such person's legal representative. For purposes of the application of the provisions of Section [515.03](#)(a)(1), (2), (4), (9), (15) and (16) of this Fair Housing Code, the definition of "housing accommodation" or "housing" shall not include any rental accommodation that is an owner-occupied two-dwelling unit building.

(Ord. 195-2003. Passed 9-22-03.)

(g) "Restrictive covenant" means any specification limiting the transfer, rental, lease or other use of any housing because of race, color, religion, sex, national origin, handicap, familial status, military status, ancestry, sexual orientation or gender identity or any limitation based upon affiliation with or approval by any person, directly or indirectly, employing race, color, religion, sex, national origin, handicap, familial status, ancestry, military status, sexual orientation or gender identity as a condition of affiliation or approval.

(Ord. 153-2012. Passed 9-24-12.)

(h) "Handicap", with respect to any person, means:

(1) A physical or mental impairment which substantially limits one or more of such person's major life activities;

(2) A record of having such an impairment; or

(3) Being regarded as having such an impairment; but such term does not include current, illegal use of or addiction to a controlled substance (as defined in Section 102 of the Federal Controlled Substances Act (21 U.S. Code 802)).

(i) "Aggrieved person" includes any person who:

(1) Claims to have been injured by a discriminatory housing practice; or

(2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

(j) "Physical or mental impairment" includes:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection,

mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance), and alcoholism. (Ord. 77-2002. Passed 4-15-02.)

(k) "Major life activities" includes, but is not limited to, the functions of caring for one's self, performing manual tasks, walking, seeing, speaking, breathing, learning and working. (Ord. 151-2004. Passed 8-23-04.)

(l) "Has a record of such impairment" means, has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(m) "Is regarded as having such an impairment" means:

(1) Has a physical or mental impairment that does not substantially limit one or more major life activity but that is treated by another person as constituting such a limitation; or

(2) Has a physical or mental impairment that substantially limits one or more major life activity only as a result of the attitudes of others toward such impairment; or

(3) Has none of the impairments defined in subsection (j) hereof but is treated by another person as having such an impairment.

(n) "Familial status" means one or more individuals, who have not attained the age of eighteen 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 person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or who is in the process of securing legal custody of any individual who has not attained the age of eighteen years.

(o) "Complainant" means the person (including the Commission) who files a complaint under Section [515.08](#).

(p) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Commission.

(q) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(r) "Respondent" means:

(1) The person or other entity accused in a complaint of an unfair housing practice; and

(2) Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified in Section [515.08](#).

(Ord. 77-2002. Passed 4-15-02.)

515.03 UNLAWFUL DISCRIMINATORY HOUSING PRACTICES PROHIBITED.

(a) The following acts or activities shall be unlawful discriminatory housing practices and it is hereby prohibited for any person to:

(1) Refuse to sell, or rent after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or to otherwise deny, withhold or make unavailable, housing accommodations, because of the race, color, religion, sex, ancestry, handicap, familial status, military status, national origin, sexual orientation or gender identity;

(2) Represent to any person that housing is not available for inspection, sale or rental because of race, color, religion, sex, ancestry, handicap, familial status, national origin, sexual orientation or gender identity, when in fact it is available;

(3) Refuse to lend money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of housing or otherwise withhold financing of housing from any person because of the race, color, religion, sex, ancestry, handicap, familial status, military status, national origin, sexual orientation or gender identity of any present or prospective owner, occupant or user of such housing, provided such person, whether as individual, corporation or association of any type, lends money as one of the principal aspects or incident to his principal business and not only as a part of the purchase price of an owner-occupied residence he is selling nor merely casually or occasionally to a relative or friend;

(4) Discriminate against any person in the terms, conditions or privileges of selling, transferring, assigning, renting, leasing or subleasing any housing or in the furnishing of facilities, services or privileges in connection with the ownership, occupancy or use of any housing because of the race, color, religion, sex, ancestry, handicap, familial status, military status, national origin, sexual orientation or gender identity;

(5) Refuse to consider without prejudice the combined income of both husband and wife for the purpose of extending mortgage credit to a married couple or either member thereof;

(6) Print, publish, circulate or otherwise make or cause to be made any statement or advertisement relating to the sale, transfer, assignment, rental, lease, sublease or acquisition of any housing or the loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of housing which indicates any preference, limitation, specification or discrimination based upon race, color, religion, sex, ancestry, handicap, familial status, military status, national origin, sexual orientation or gender identity, or an intention to make any such preference, limitation or discrimination;

(7) Make any inquiry, elicit any information, make or keep any record or use any form of application containing questions or entries concerning race, color, religion, sex, ancestry, national origin, sexual orientation or gender identity in connection with the sale or lease of any housing or the loan of any money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of housing. It shall not be prohibited for any person to make inquiry, elicit any information, make or keep any record or use any form or application containing questions or entries related to handicap or familial status of any person provided that such information is not being used to discriminate against any person or family with regard to housing or housing accommodations. Further provided that this section shall not prohibit any data recording or record keeping or reporting by any person for purposes of complying with any federal record keeping or record reporting requirement associated with HUD assisted housing management or lending activities or other programs administered by HUD including, but not being limited to, the requirements of Section 808(e)(6) of the Fair Housing Act;

(8) Include in any transfer, rental or lease of housing any restrictive covenant, or honor or exercise, or attempt to honor or exercise, any restrictive covenant, provided that the prior inclusion of a restrictive covenant in the chain of title shall not be deemed a violation of this provision;

(9) Induce or solicit or attempt to induce or solicit a housing listing, sale or transaction for profit by representing that a change has occurred or may occur with respect to the racial, religious, sexual, handicap, familial status, military status, ethnic composition, sexual orientation

or gender identity of the block, neighborhood or area in which the property is located, or induce or solicit or attempt to induce or solicit such sale or listing by representing that the presence or anticipated presence of persons of any race, color, religion, sex, ancestry, handicap, familial status, military status, national origin, sexual orientation or gender identity in the area shall or may have results such as the following:

A. The lowering of property values;

B. A change in the racial, religious, sexual, handicap, familial status, military status, ethnic composition, sexual orientation or gender identity of the block, neighborhood or area in which the property is located;

C. An increase in criminal or antisocial behavior in the area; or

D. A decline in the quality of the schools serving the area;

(10) Deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting housing accommodations, or to discriminate against any person in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, national origin, handicap, familial status, military status, ancestry, sexual orientation or gender identity;

(11) Coerce, 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 Fair Housing Code;

(12) Willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with by force or threat of force, whether or not acting under color of law:

A. Any person because of race, color, religion, sex, national origin, handicap, familial status, military status, ancestry, sexual orientation or gender identity and because that person is or has been selling, purchasing, renting, financing, occupying, contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization or facility relating to the business of selling or renting housing accommodations; or

B. Any person or any class of persons from:

1. Participating, without discrimination on account of race, color, religion, sex, national origin, handicap, familial status, military status, ancestry, sexual orientation or gender identity, in any of the activities, services, organizations or facilities described in subsection (a)(12)A. hereof; or

2. Affording another person or class of persons opportunity or protection to so participate;

C. Any person from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, national origin, handicap, familial status, military status, ancestry, sexual orientation or gender identity, in any of the activities, services, organizations or facilities described in subsection (a)(12)A. hereof or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate;

(13) Refuse to issue policies of homeowners' insurance by any insurance company, agent or agency doing business in the City or to restrict the availability of homeowners' insurance to any person or to limit the amount of coverages available to any person or to offer such insurance to any person only at such an excessive rate as to make the insurance unavailable as a practical matter, upon the basis of the predominant religious, racial, sexual, handicap, familial status,

military status, ethnic characteristics, sexual orientation or gender identity of the population residing in the block, neighborhood or geographical area in which the prospective insured or applicant for insurance resides or seeks to reside;

(14) 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 any provisions of this Fair Housing Code;

(15) Discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

A. That buyer or renter;

B. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or

C. Any person associated with that buyer or renter.

(16) Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:

A. That person;

B. A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or

C. Any person associated with that person;

(17) Discriminate against any person in making available residential real estate-related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, ancestry, handicap, familial status, military status, national origin, sexual orientation or gender identity by any person or other entity whose business includes engaging in residential real estate-related transactions.

(Ord. 77-2002. Passed 4-15-02; Ord. 153-2012. Passed 9-24-12.)

(b) For purposes of this subsection, discrimination includes:

(1) A refusal to permit, at the expense of the handicapped person, reasonable modifications of 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, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

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

(3) A failure to design and construct covered multi-family dwellings for first occupancy after March 13, 1991, in such a manner that:

A. The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

B. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

C. All premises within such 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 which allow later installation of grab bars; and
4. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

D. Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of subparagraph (b)(3)C..

(c) As used in this subsection, the term "covered multi-family dwellings" means:

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

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

(d) Nothing in this chapter shall be construed to invalidate or limit any statute of Ohio that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this chapter.

(e) Nothing in this section requires 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.

(f) 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 which is either:

A. For purchasing, constructing, improving, repairing or maintaining a dwelling; or

B. Secured by residential real estate.

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

(Ord. 77-2002. Passed 4-15-02.)

(g) Nothing in this section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, ancestry handicap, familial status, military status, sexual orientation or gender identity.

(h) Nothing in this section shall prohibit a religious organization, association or 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, national origin, military status, sexual orientation or gender identity. Nor shall anything in this section prohibit a private club not in fact open to the public, which as incidental to its primary purpose or purposes provides lodgings 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, provided such club does not discriminate in its membership policies on the basis of race, color, religion, sex, ancestry, handicap, familial status, national origin, sexual orientation or gender identity.

(Ord. 153-2012. Passed 9-24-12.)

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

(1) As used in this section, "housing for older persons" means housing:

A. Provided under any state or federal program that the Secretary of Housing and Urban Development has determined is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or

B. Intended for and solely occupied by persons sixty-two years of age or older; or

C. Intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the regulations developed and promulgated by the United States Secretary of Housing and Urban Development shall be determinative for purposes of this chapter, and such regulations shall include, but not be limited to the following factors:

1. That at least eighty percent (80%) of the units are occupied by at least one person fifty-five years of age or older per unit; and

2. The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older; and

3. The housing facility or community complies with rules issued by the Secretary of Housing and Urban Development for the verification of occupancy, which shall provide for verification by reliable surveys and affidavits, and include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of paragraph 2. above. Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(2) Housing shall not fail to meet the requirements for housing for older persons by reason of: (Ord. 77-2002. Passed 4-15-02.)

A. Persons residing in such housing as of the enactment date of the Federal Fair Housing Amendments Act of 1988 on September 13, 1988, who do not meet the age requirements of subsections (i)(1)B. or C. hereof; provided that new occupants of such housing meet the age requirements of subsections (i)(1)B. or C. hereof; or

(Ord. 151-2004. Passed 8-23-04.)

B. Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subsections (i)(1)B. and C. hereof.

(j) Nothing in this chapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802). (Last amended by L.1988, P.L.100-430, eff. 3-12-89.)

(Ord. 77-2002. Passed 4-15-02.)

515.04 MANDATORY NOTICE OF FAIR HOUSING RIGHTS.

Every real estate broker, agent and every owner or manager of housing accommodations as defined in Section [515.02\(f\)](#) located in the City shall post in printed form an 11 inch by 14 inch poster with the following notice regarding fair housing rights, in a conspicuous place in that portion of his/her place of business normally used for the transaction of rental or sales business with prospective purchasers or lessees:

EQUAL HOUSING OPPORTUNITY

We do business in accordance with the City of Canton Fair Housing Code (Chapter [515](#)).

IT IS ILLEGAL TO DISCRIMINATE AGAINST ANY PERSON BECAUSE OF RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS, ANCESTRY, MILITARY STATUS, NATIONAL ORIGIN, SEXUAL ORIENTATION OR GENDER IDENTITY

1. In the sale or rental of housing or residential lots.
2. In advertising the sale or rental of housing.
3. In the financing of housing.
4. In the appraisal of housing.
5. In the provision of real estate brokerage services.
6. Blockbusting is also illegal.

Anyone who feels he or she has been discriminated against should send a complaint to:

City of Canton
Fair Housing Director/Commission
P.O. Box 24218
Canton, Ohio 44701

(Ord. 153-2012. Passed 9-24-12.)

515.05 FAIR HOUSING COMMISSION.

(a) There is hereby created a Fair Housing Commission of the City, which shall consist of nine members who shall be appointed by the Mayor and confirmed by Council, not more than five of whom shall be of the same political party. All members shall be residents of the City of Canton and/or shall be employed or have their principal place of business within the City. The terms of office of each member of the Commission shall be for five years, and until his successor takes office, provided that of the members first appointed, two shall be for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years and one for a term of five years.

(Ord. 29-2009. Passed 3-2-09.)

(b) The Commission members shall be chosen in such a manner as to represent an appropriate cross section of the community, and there shall not be more than three members of the Commission from each of the following categories:

- (1) Real estate sales industry.
- (2) Construction industry.
- (3) Lending institutions.
- (4) Building and trade unions.
- (5) Insurance agencies or companies.

This limitation being for the purpose of not having a preponderance of the Commission being representative of those industries and businesses primarily concerned with the creation and provision of housing accommodations.

(c) The Mayor shall be an ex-officio member of the Commission. In making appointments to the Commission, the appointing authority shall make every effort to see that minority groups are adequately represented and that qualified women, young and elderly persons are included in the composition of the Commission.

(d) After having been duly constituted as a Commission, the Commission shall hold an organizational meeting and shall choose a chairperson, vice chairperson and secretary from the membership of the Commission by a majority vote of the members. Such officers shall serve for

a term of one year and new officers shall be elected annually at the first regular meeting after the anniversary date of the first organizational meeting.

(e) Any member chosen to fill a vacancy occurring otherwise than by expiration of the term for which the predecessor was appointed, shall be appointed only for the remainder of the predecessor's term. For the purpose of conducting the business of the Commission, five members shall constitute a quorum, and the fact that an unfilled vacancy may exist on the Commission shall not impair the right of the remaining members to exercise all of the powers of the Commission.

(f) Each member of the Commission shall serve without compensation and any member may be removed by the Mayor for inefficiency, neglect of duty, excessive absenteeism, misconduct or malfeasance, after being given a written statement of the charges and an opportunity to be heard thereon.

(g) The Commission shall hold regular monthly meetings not less than six months per year, and in addition, shall hold special meetings upon call by the chairperson, the executive director, the Mayor or any two members, by giving at least twenty-four hours written notice to each member served personally or left at his usual place of residence.

(Ord. 77-2002. Passed 4-15-02.)

515.06 POWERS AND DUTIES OF THE FAIR HOUSING COMMISSION.

(a) The Fair Housing Commission shall:

(1) Appoint an executive director who shall serve at the pleasure of the Commission, be its principal administrative officer and who shall receive such compensation as may be determined and appropriated by Council.

(2) The Commission shall have an office, located in the City Hall or a City satellite office, which shall be readily accessible to the public. The office shall be opened during all hours as the City Hall is regularly opened. The location of the office and the services available shall be adequately advertised to the public;

(3) Appoint investigators and such other clerical and administrative employees as may be necessary to carry out the purposes of this Fair Housing Code. Such staff shall be of sufficient number and quality to ensure fulfillment of the educational as well as the enforcement and other activities of the Commission and shall include at least one person who is a duly commissioned Notary Public at all times;

(4) Adopt, promulgate, amend and rescind rules and regulations and other guidelines to perpetuate the purposes of this Fair Housing Code;

(5) Receive, investigate and pass upon written charges made under oath, alleging practices, policies and courses of conduct prohibited by Section [515.03](#);

(6) Make periodic surveys or studies of the existence and effect of housing discrimination because of race, color, religion, sex, handicap, familial status, national origin or ancestry by persons within the City;

(7) Submit reports and recommendations to the Mayor and Council, from time to time, but not less than once per year, describing the investigations, proceedings and hearings it has conducted and their outcome, the decisions it has ordered in other work and activities carried out by the Commission. The report shall include copies of any surveys or other studies prepared by the Commission, pursuant to subsection (a)(6) hereof, and shall also include recommendations of the Commission relative to remedial action, legislation or other matters; and

(8) Institute and conduct educational and other programs and devise a strong public relations program to promote the equal rights and opportunities of all persons in matters related to housing accommodations, regardless of their race, color, religion, sex, handicap, familial status, national origin or ancestry and to eliminate the prejudice and ignorance which result in housing discrimination.

(b) The Fair Housing Commission may:

(1) Meet and function at any place within the City in compliance with the Ohio Sunshine Law;

(2) Initiate and undertake on its own motion, investigations of unlawful discriminatory housing practices as defined under Section [515.02](#); and

(3) Hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and require the production for examination of any books, papers, documents or recording relating to any matter under investigation or in question before the Commission, and may make rules as to the form and manner of the issuance of subpoenas by the Commission or individual Commissioners.

(c) In conducting a hearing or investigation, the Commission shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take the record and the testimony for statements of persons as are reasonably necessary for the furtherance of the investigation, subject, however, to the limitations and requirements imposed by the Fourth Amendment to the United States Constitution and further subject to the requirement that no person shall be compelled to be a witness against himself. No subpoena shall be issued except upon the concurrence and affirmative vote of at least a majority of the Commissioners present at any meeting wherein a quorum is in attendance, and pursuant to a finding by such members of the necessity and propriety of the issuance of subpoenas to compel the attendance and testimonies of witnesses and for the production of relevant documents.

(Ord. 77-2002. Passed 4-15-02.)

515.07 CIVIL RIGHTS ATTORNEY.

The Director of Law shall assign to a member of his staff the duty to provide such legal advice, services and representation as may be required by the Fair Housing Commission.

(Ord. 77-2002. Passed 4-15-02.)

515.08 COMPLAINT PROCEDURE.

(a) Whenever it is alleged in writing and under oath by any person, to be referred to as the complainant, that another person, to be referred to as the respondent, has engaged in or is engaging in unlawful discriminatory housing practices, or upon its own resolution and initiative when the Fair Housing Commission has information in its possession relating to the existence of unlawful discriminatory housing practices as defined in Section [515.02](#), the Commission shall initiate a preliminary investigation of the alleged unlawful discriminatory housing practice or practices. The complaint of housing discrimination shall be in writing, under oath, upon such form as may be prescribed by the Commission and shall be brought and filed by the complainant

with the Commission within one (1) year of the occurrence of the alleged acts of housing discrimination. Likewise, initiation of any complaint by resolution of the Commission itself shall also be brought and filed within one (1) year of the occurrence of the alleged acts of housing discrimination.

(b) Upon the filing of a complaint of unlawful housing discrimination, the Commission shall cause notice to be served upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this Fair Housing Code. Further, the Commission shall not later than ten (10) days after the filing of such complaint or the identification of an additional respondent, serve upon each respondent:

(1) A notice describing and identifying the alleged discriminatory housing practice and advising each respondent of the procedural rights and obligations of a respondent under this chapter; and

(2) A copy of the original complaint.

Each respondent may file, not later than ten (10) days after receipt of notice of the complaint, an answer to such complaint.

(c) The Commission, upon the filing of a complaint by any person or upon the initiation of a complaint by the Commission itself, shall commence the investigation of the allegations set forth in the complaint within thirty (30) days of the filing of the complaint. The Commission shall complete such investigation within one hundred (100) days after receipt of the complaint, unless there are circumstances making completion within such one hundred (100) day time frame impracticable, in which case the Commission shall inform both the complainant and respondent in writing of the reasons why the investigation cannot be completed within the usual prescribed time frame.

If in the course of the investigation additional parties are identified who were not named as respondents in the initial complaint, but who should have been named as respondents, the Commission may join such parties as additional or substitute respondents upon written notice given to such parties in the manner as specified in subsection (b) hereinabove, which notice in addition to meeting the requirements of subsection (b), shall explain the basis for the Commission's belief that the person to whom the notice is addressed is properly joined as a respondent.

(Ord. 77-2002. Passed 4-15-02.)

(d) During the period beginning with the filing of the complaint and ending with the filing of a charge or a dismissal by the Commission, the Commission shall, to the extent feasible, engage in conciliation with respect to such complaint. Any conciliation agreement reached as a result of the conciliation process shall be entered into as an agreement between the respondent, complainant and Commission, and shall be subject to approval by the Commission. A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint; and any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief. Every conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Commission determines pursuant to State law that disclosure is not required to further the purposes of this chapter. Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned.

(Ord. 195-2003. Passed 9-22-03.)

(1) After completion of the Commission's investigation, the Commission shall make available to the aggrieved person and to the respondents, at any time, information derived from the investigation and any final investigation report relating to that investigation.

(2) At the end of each investigation under this section, the Counselor shall prepare a final investigative report containing:

- A. The names and dates of contact with witnesses;
- B. A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
- C. A summary description of other pertinent records;
- D. A summary of witness statements; and
- E. Answers to interrogatories.

(e) If after completion of the investigation it is determined by the Commission that it is not probable that an unlawful discriminatory housing practice has been or is being engaged in, the Commission shall notify the complainant and the respondent of its decision and that further proceedings will not be instituted and that the case is being closed by such disposition.

(f) If the Commission, after completion of its investigation, finds that unlawful discriminatory housing practices probably have been or are being engaged in and that efforts at conciliation have failed and the Commission is unable to obtain voluntary compliance with the provisions of this chapter, the Commission shall then promptly issue and cause to be served upon the complainant and upon the respondent or respondents alleged to have been involved in the commission of the unlawful discriminatory housing practice or practices in question, a formal charge setting forth the charges in that respect and containing a notice of hearing before the Commission, a committee or subcommittee of the Commission, or before a hearing officer appointed to conduct such hearing, at any place within the boundaries of the City of Canton and at a time not less than one hundred twenty (120) days after the service of such notice. The Law Director or a member of his staff shall represent the Commission at such hearing and assist in the presentation of evidence in support of the complaint.

(g) Any complaint or charge may be amended by the Commission or the committee or hearing officer appointed to conduct the hearing at any time prior to or during the hearing. The respondent has the right to file an answer or an amended answer to the original formal charge and any amendment thereof and to appear at such hearing in person or by attorney, to examine and cross-examine witnesses and present evidence and testimony in support of respondent's position.

(h) Such charge:

(1) Shall consist of a short and plain statement of the facts upon which the Commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(2) Shall be based on the final investigative report; and

(3) Need not be limited to the facts or grounds alleged in the complaint filed under Section [515.08](#).

(i) A complainant or an aggrieved person who files a complaint with the Commission and on whose behalf the Commission has issued a formal charge, as provided by paragraph (f) of this section, or a respondent may elect, following receipt of the relevant notice as described in paragraph (f) of this section, to proceed with the administrative hearing process or to have the alleged unlawful discriminatory practices covered by the complaint addressed in a civil action as available under this Fair Housing Code. The election must be made not later than twenty (20)

days after the date of receipt by the electing person of service of the charge under paragraph (f) of this section. The person making the election shall give notice of such election in writing by certified mail, return receipt requested, to the Commission and to the other parties to the pending administrative process within the twenty (20) day period provided for herein.

If a timely election is made under this subsection, the Commission shall authorize, not later than the thirtieth (30th) day after the election is made, the Law Director to file a civil action on behalf of the aggrieved person in a Common Pleas Court of the State of Ohio, seeking relief under this section. Venue for an action under this section is in the county in which the alleged unlawful discriminatory housing practice occurred. Any aggrieved person may intervene in the action. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief that a court may grant in a civil action under Section [515.10](#). If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court may not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the court.

(j) If no timely election is made under subsection [515.08\(i\)](#) hereof, the Commission shall proceed to schedule and conduct a hearing upon the charge pending before the Commission.

(k) The complainant shall be a party to the proceeding and any person who is an indispensable party to a complete determination or settlement of the matters involved shall be joined. Any person who has or claims to have an interest in the subject of the hearing and in obtaining or preventing relief against the acts or practices complained of may be, in the discretion of the person or body conducting the hearing, permitted to appear for the presentation of oral or written arguments.

(l) In any proceeding the Commission, or committee or subcommittee of the Commission or hearing officer appointed to conduct the hearing shall be bound by the Federal Rules of Evidence which shall apply to the presentation of evidence in such hearing as they would in a civil action in a United States District Court, and shall, in ascertaining the practices followed by the respondent, take into account all reliable, probative and substantive evidence, statistical or otherwise, produced at the hearing, which may tend to prove the existence or nonexistence of any unlawful discriminatory housing practices.

(m) The testimony taken at the hearing contemplated by this section shall be under oath and shall be reduced to writing and filed with the Commission together with the recommended findings of fact and conclusions of law made by the committee, subcommittee or hearing officer conducting the hearing. Thereafter, at its discretion, the Commission, the committee or subcommittee of the Commission or the hearing officer conducting the hearing, upon due notice to the complainant and to the respondent with an opportunity for them to be present, may take further testimony or hear argument. No person shall be compelled to be a witness against himself at any such hearing.

(n) Whenever deemed necessary, in order to protect the rights of the complainant and to preserve the power of the Commission to act upon or to resolve a complaint, an attorney designated by the Law Director may apply to a court of competent jurisdiction for an injunction against the respondent restraining him from taking any action which would prevent the Commission from acting or which would make any order issued by the Commission meaningless or ineffective. (Ord. 77-2002. Passed 4-15-02.)

515.09 ENFORCEMENT BY THE FAIR HOUSING COMMISSION.

(a) If upon all the reliable, probative and substantive evidence the Fair Housing Commission determines that the respondent has engaged in, or is engaging in any unlawful discriminatory housing practice alleged in the complaint, the Commission shall state its findings of fact and conclusions and shall issue and cause to be served upon the respondent an order or orders requiring the respondent to cease and desist from such unlawful discriminatory housing practice and to take such further affirmative or other action as shall effectuate the purposes of this chapter, which order may include but shall not be limited to the following specific relief:

(1) An order requiring the respondent to pay compensation in money for any economic losses or damages shown to have been incurred by the complainant as a result of unlawful discriminatory housing practices.

(2) To vindicate the public interest, the Commission may assess a civil penalty against the respondent:

A. In an amount that does not exceed eleven thousand dollars (\$11,000) if the respondent has not been adjudged by order of the Commission or a court to have committed a prior unlawful discriminatory housing practice;

B. In an amount that does not exceed twenty-seven thousand five hundred dollars (\$27,500), if the respondent has been adjudged by order of the Commission or a court to have committed one other unlawful discriminatory housing practice during the five-year period ending on the date of the filing of the charge except as provided by subsection (a)(2)D. hereof;

(Ord. 77-2002. Passed 4-15-02.)

C. In an amount that does not exceed fifty-five thousand dollars (\$55,000), if the respondent has been adjudged by order of the Commission or a court to have committed two or more unlawful discriminatory housing practices during the seven-year period ending on the date of the filing of the charge except as provided by subsection (a)(2)D. hereof; and

(Ord. 195-2003. Passed 9-22-03.)

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

(b) At the request of the Commission, the Law Director shall sue to recover a civil penalty due under this section. Funds collected under this section shall be paid to the Treasurer for deposit in the City Treasury to the credit of a special fair housing fund to be established by the City Council for the purposes of administering and implementing this Fair Housing Code.

(c) Upon the submission of acceptable reports of compliance, the Commission may issue a declaratory order stating that the respondent has ceased to engage in unlawful discriminatory housing practices.

(d) If the Commission upon consideration of the record of the proceedings, including any recommendation made by a committee or subcommittee of the Commission or by a hearing officer who has conducted the evidentiary hearing, finds that there is no probable cause to credit the allegations made in the charge, or if, upon consideration of all of the evidence contained in the record, it is determined that the respondent has not engaged in any unlawful discriminatory housing practice, the Commission shall state in writing the findings of fact and conclusions in

this regard, and shall issue and cause to be served on the complainant and the respondent, an order dismissing the complaint and charges.

(e) The Commission shall complete and dispose of all administrative proceedings relating to a complaint within one (1) year of the date that the complaint is filed unless it is impracticable to do so. If the Commission is unable to complete the administrative disposition of a complaint within said one (1) year period, it shall notify the parties in writing of the reasons for not doing so.

(f) Any party to the proceeding, claiming to be aggrieved by a final order of the Commission, including a determination by the Commission that a prima-facie case has not been established in support of the charge, may obtain judicial review from such final order by appeal to the Common Pleas Court of Stark County, Ohio, pursuant to Chapter 2506 of the Ohio Revised Code or by such other forum or court of competent jurisdiction as may be provided by law. The filing of the petition for judicial review shall be not later than 30 days after the final order is entered.

(g) Relief which may be granted under subsection [515.09\(f\)](#) includes:

(1) Granting to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

(2) Affirming, modifying, or setting aside, in whole or in part, the order, or remanding the order for further proceedings; and

(3) Enforcing such order to the extent that such order is affirmed or modified.

(h) Unless an appeal is pending, in the event the respondent fails or refuses to comply with an order issued by the Commission, the Commission shall certify that case, together with the record of its proceedings including the complete transcript thereof, and also the available evidence of noncompliance to the Law Director, and it shall be the duty of the Law Director to seek compliance with the Commission's order by bringing a civil action in the name of the Commission before a court of competent jurisdiction for injunctive or other relief as may be necessary and appropriate to enforce compliance with such orders.

(Ord. 77-2002. Passed 4-15-02.)

515.10 PRIVATE ENFORCEMENT BY INJUNCTIVE AND OTHER CIVIL RELIEF.

(a) The existence of any unlawful discriminatory housing practice as defined by this Fair Housing Code and the commission of any act constituting the same is hereby declared to be a public nuisance, and any person injured or aggrieved thereby may enforce the provisions of this chapter, and seek remedial relief by filing a civil action in a court of competent jurisdiction requesting injunctive relief, damages, including actual damages, punitive damages and attorney fees, or other appropriate remedy. Such civil action shall be commenced within one (1) year after the alleged discriminatory housing practice occurred.

(b) If the court finds that an unlawful discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate, which relief may include a permanent or temporary injunction, temporary restraining order or other order; and may also order and award judgment for appropriate compensatory and/or punitive damages.

(Ord. 77-2002. Passed 4-15-02.)

515.11 LIMITATION OF JURISDICTION AND TERMINATION OF PENDING PROCEEDINGS

The Fair Housing Commission shall have no authority to entertain any complaint or to continue the processing of any complaint, if the facts upon which the complaint is founded have been made the subject of any active proceedings before the Ohio Civil Rights Commission, the Federal Department of Housing and Urban Development or the subject of any civil action in any court of competent jurisdiction. In the event that after the filing of any complaint with the Commission any such proceeding is instituted by the complainant before any court, or federal or state agency having jurisdiction in the matter, any and all proceedings pending before the Commission by reason of the same underlying factual matters shall immediately abate and be suspended pending the conclusion of proceedings before the court or superseding public agency. (Ord. 77-2002. Passed 4-15-02.)

515.12 LIBERAL CONSTRUCTION.

The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing in this chapter shall be deemed to repeal or otherwise affect any of the provisions of the federal or Ohio civil rights laws relating to discrimination in housing because of race, color, religion, sex, handicap, familial status, national origin or ancestry, which to the extent that they are applicable, shall supersede the provisions of this chapter. (Ord. 77-2002. Passed 4-15-02.)

515.13 CONTINUANCE OF PENDING PROCEEDINGS.

Any and all proceedings heretofore commenced under the previously existing Chapter [515](#) of the Codified Ordinances shall not abate or terminate, but shall be prosecuted and concluded in accordance with the procedures established by this chapter. (Ord. 77-2002. Passed 4-15-02.)

515.99 PENALTY.

(a) Any person who fails to comply with a subpoena issued by the Fair Housing Commission shall be guilty of a misdemeanor of the fourth degree.

(b) Any person who fails to comply with a conciliation agreement or any order issued by the Commission as provided in Section [515.09](#) shall be guilty of a misdemeanor of the fourth degree; each day's noncompliance with any such agreement or order shall be deemed to be a separate offense.

(c) Any person who engages in conduct constituting a discriminatory housing practice as defined in Section [515.03](#) shall be guilty of a misdemeanor of the fourth degree.

(d) Any person who fails to comply with the mandatory notice of housing discrimination rights, as required to be given by Section [515.04](#) shall be guilty of a misdemeanor of the fourth degree. Any person who fails to comply with the notice requirements set forth in Section

515.04, who has previously been found guilty of a violation of the notice requirements of such Section 515.04, shall be guilty of a misdemeanor of the third degree.
(Ord. 77-2002. Passed 4-15-02.)