

ORDINANCE NO. O2022-010

AN ORDINANCE of the City Council of the City of Tumwater, Washington, amending Chapter 5.70 *Unfair Housing Practices* of the Tumwater Municipal Code as more particularly described herein.

WHEREAS, in 2010 the City Council passed Ordinance O2010-022 establishing a policy to assure equal opportunity to all persons to live in decent housing; and prohibiting discrimination, including use of federal housing assistance; and

WHEREAS, in 2018 the City Council passed Resolution R2018-016, which included a number of actions to start to reduce homelessness, increase affordable housing, and continue to work with other jurisdictions and agencies to explore regional solutions to these issues; and

WHEREAS, Resolution R2018-016 included Action #9 under “Boost Housing Affordability” to enact policies to protect tenants experiencing housing instability; and

WHEREAS, after the City Council adopted Resolution No. R2018-016 in the summer of 2018, the City has undertaken a number of actions to address homelessness, increase affordable housing, and continue to work with other jurisdictions and agencies to explore regional solutions to these issues; and

WHEREAS, since 2018, the City has been reviewing actions and measures to take to support tenant protections as a way to make it easier for people in the City who rent to access housing and stay housed; and

WHEREAS, a City work group explored a range of potential measures to address Resolution No. R2018-016 Action #9, so that the City Council could make an informed decision on which actions to pursue; and

WHEREAS, the City work group met in 2018 and 2019 to review the City’s current tenant protections found in TMC Chapter 5.70 *Unfair Housing Practices*, as well as the state’s requirements under the Residential Landlord-Tenant Act (RLTA) (RCW 59.18) and what other jurisdictions are doing to address tenant protections; and

WHEREAS, the City work group prepared a draft list of potential measures that the City could undertake; and

WHEREAS, the City Council discussed the draft list of potential measures at a worksession on March 26, 2019 and moved one potential measure to an action item; and

WHEREAS, the draft list of potential measures was updated on April 8, 2019 to address additional upfront costs to tenants and to change immigration status to citizenship status; and

WHEREAS, in late 2019 and early 2020, City staff met with individual landlords and tenants to discuss the list of potential measures; and

WHEREAS, in late 2019 and early 2020, the City work group shared its list of potential measures with staff at Thurston County and the cities of Olympia and Lacey with the intent of working on some of the potential measures regionally; and

WHEREAS, since 2018, the state legislature has passed a number of bills on the state level addressing tenant protections in the RLTA; and

WHEREAS, the draft list of potential measures has been updated to reflect these state actions; and

WHEREAS, in 2020 the City Council passed Ordinance O2020-019 to add and update the protected parties and definitions in TMC 5.70 *Unfair Housing Practices*; and

WHEREAS, in September 2021, the City Council adopted the *Tumwater Housing Action Plan*, which will inform the City's Comprehensive Plan policies and development regulations, guide implementation strategies, and provide actions to help the City meet its housing needs; and

WHEREAS, the *Tumwater Housing Action Plan* contains three strategies and ten actions that the City has agreed to undertake that are most relevant to addressing tenant protections; and

WHEREAS, *Tumwater Housing Action Plan* Action 2.e. states, "Identify and implement appropriate tenant protections that improve household stability"; and

WHEREAS, the General Government Committee held a briefing to discuss tenant protections on February 9, 2022; and

WHEREAS, the City Council held a worksession to discuss tenant protections on March 22, 2022; and

WHEREAS, the General Government Committee held a briefing on the proposed code amendments on October 12, 2022 and the City Council held a worksession on November 7, 2022; and

WHEREAS, on December 6, 2022 the City Council held a public hearing and considered the proposed code amendments; and

WHEREAS, the Tumwater City Council finds it is in the best interests of its residents to update its policy to include additional tenant protections.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUMWATER, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 5.70.010 of the Tumwater Municipal Code is hereby amended to read as follows:

5.70.010 Declaration of Policy.

It is declared to be the policy of the city in the exercise of its police power for the public safety, public health, and general welfare, for the maintenance of business and good government and for the promotion of the city's trade, commerce and manufacturers to assure equal opportunity to all persons to live in decent housing facilities regardless of race, creed, color, religion, ancestry, national origin, citizenship or immigration status, honorably discharged veteran or military status, gender, the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, families with children status, age, marital status, sexual orientation, genetic information, or source of income, and to that end to prohibit discrimination in housing by any person, including real estate brokers, real estate salesmen and agents, owners of real property and lending institutions, to forward the cause of community, and to secure a reduction of all tensions and discriminations because of race, creed, color, religion, national origin, citizenship or immigration status, honorably discharged veteran or military status, gender, the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, families with children status, age, marital status, sexual orientation, genetic information, or source of income. It is not an unfair practice when a distinction or differential treatment on the basis of citizenship or immigration status is authorized by federal or state law, regulation, rule, or government contract.

(Ord. O2020-019, Amended, 08/04/2020; Ord. O2010-022, Added, 12/21/2010)

Section 2. Section 5.70.020 of the Tumwater Municipal Code is hereby amended to read as follows:

5.70.020 Definitions.

Definitions as used in this chapter, unless additional meaning clearly appears from the context, shall have the following meanings:

- A. “Commission” means the Washington State Human Rights Commission.
- B. “Dwelling” means and includes any building containing one or more dwelling units.
- C. “Dwelling unit” means and includes a suite of rooms for occupancy by one family containing space for living, sleeping, and preparation of food, and containing toilet and bathing facilities.
- D. “Housing accommodations” means and includes any dwelling or dwelling unit, rooming unit, roominghouse, lot or parcel of land in the city which is used, intended to be used, or arranged or designed to be used as, or improved with a residential structure for one or more human beings.
- E. “Lender” means and includes any bank, insurance company, savings or building and loan association, credit union, trust company, mortgage company, or other person engaged wholly or partly in the business of lending money for the financing or acquisition, construction, repair, or maintenance of a housing accommodation.
- F. “Occupant” means and includes any person who has established residence or has the right to occupancy in a housing accommodation.
- G. “Owners” means and includes persons who own, lease, sublease, rent, operate, manage, have charge of, control, or have the right of ownership, possession, management, charge, or control of the housing accommodation, on their own behalf or on behalf of another.
- H. “Person” means and includes one or more individuals, partnerships, or other organizations, trade or professional associations, corporations, legal representatives, trustees, trustees in bankruptcy, and receivers.
- I. “Person aggrieved” means any person against whom any alleged unfair housing practice has been committed.
- J. “Prospective borrower” means and includes any person who seeks to borrow money to finance the acquisition, construction, repair, or maintenance of a housing accommodation.
- K. “Prospective occupant” means and includes any person who seeks to purchase, lease, sublease, or rent a housing accommodation.
- L. “Race” is inclusive of traits historically associated or perceived to be associated with race including, but not limited to, hair texture and protective hairstyles. For purposes of this subsection, “protective hairstyles” includes, but is not limited to, such hairstyles as afros, braids, locks, and twists.

M. “Real estate agent, ~~salesman~~salesperson, or employee” means and includes any person employed by or associated with a real estate broker to perform or assist in the performance of any or all of the functions of real estate broker.

N. “Real estate broker” means and includes any person who for a fee, commission, or other valuable consideration lists for sale, sells, purchases, exchanges, leases or subleases, rents, or negotiates or offers or attempts to negotiate the sale, purchase, exchange, lease, sublease, or rental of a housing accommodation of another, or holds himself out as engaged in the business of selling, purchasing, exchanging, listing, leasing, subleasing, or renting a housing accommodation of another, or collects the rental for the use of a housing accommodation of another.

O. “Respondent” means any person who is alleged to have committed an unfair housing practice.

P. “Rooming unit” means and includes one or more rooms within a dwelling unit or roominghouse containing space for living and sleeping.

Q. “Sexual orientation” means actual or perceived male or female heterosexuality or homosexuality and includes a person’s attitudes, preferences, beliefs, and practices pertaining thereto.

R. “Source of income” includes benefits or subsidy programs including housing assistance, public assistance, emergency rental assistance, veterans benefits, social security, supplemental security income or other retirement programs, and other programs administered by any federal, state, local, or nonprofit entity, and wages, interest, dividends, or other remunerations. “Source of income” does not include income derived in an illegal manner.

S. “Unfair housing practice” means any act prohibited by this chapter.

(Ord. O2020-019, Amended, 08/04/2020; Ord. O2010-022, Added, 12/21/2010)

Section 3. Section 5.70.030 of the Tumwater Municipal Code is hereby amended to read as follows:

5.70.030 Unfair housing practices – Prohibited.

Unfair housing practices, as defined in this chapter, in the sale and offering for sale and in the rental and offering for rent of housing accommodations, are contrary to the public peace, health, safety, and general welfare, and are prohibited by the city in the exercise of its police power.

(Ord. O2020-019, Amended, 08/04/2020; Ord. O2010-022, Added, 12/21/2010)

Section 4. Section 5.70.040 of the Tumwater Municipal Code is hereby amended to read as follows:

5.70.040 Unfair housing practices – Designated.

A. No owner, lessee, sublessee, assignee, real estate broker, real estate ~~salesman~~salesperson, managing agent, or other person having the right to sell, rent,

lease, sublease, assign, transfer, or otherwise dispose of a housing accommodation shall refuse to sell, rent, lease, sublease, assign, transfer, or otherwise deny to, or withhold from any person or group of persons such housing accommodations, or segregate the use thereof, or represent that such housing accommodations are not available for inspection, when in fact they are so available, or expel or evict an occupant from a housing accommodation because of the race, creed, color, religion, ancestry, the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, national origin, citizenship or immigration status, honorably discharged veteran or military status, gender, age, families with children status, marital status or sexual orientation of such person or persons, or ~~use of federal housing assistance~~ the source of income by such person or persons, or discriminate against or segregate any person because of his/her race, creed, color, religion, ancestry, national origin, citizenship or immigration status, gender, the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, honorably discharged veteran or military status, age, families with children status, marital status, sexual orientation, or source of income, in the terms, conditions, or privileges of the sale, rental, lease, sublease, assignment, transfer or other disposition of any such housing accommodations or in the furnishing of facilities or services in connection therewith.

B. A real estate broker, agent, ~~salesman-salesperson~~, or employee shall not, because of race, creed, color, religion, ancestry, national origin, citizenship or immigration status, gender, the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, honorably discharged veteran or military status, age, families with children status, marital status, sexual orientation, or source of income of an occupant, purchaser, prospective occupant or prospective purchaser:

1. Refuse or intentionally fail to list or discriminate in listing a housing accommodation for sale, rent, lease, or sublease;
2. Refuse or intentionally fail to show to a prospective occupant the housing accommodation listed for sale, rental, lease, or sublease;
3. Refuse or intentionally fail to accept and/or transmit to an owner any reasonable offer to purchase, lease, rent, or sublease a housing accommodation;
4. Otherwise discriminate against an occupant, prospective occupant, purchaser, or prospective purchaser of a housing accommodation.

C. No person, bank, banking organization, mortgage company, insurance company, or other financial institution or lender, or any agent or employee thereof, to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, or maintenance of any housing accommodation shall:

1. Discriminate against any person or group of persons because of race, creed, color, religion, ancestry, national origin, citizenship or immigration status,

gender, the presence of any sensory, mental, or physical disability or the use of a dog guide or service animal by a person with a disability, honorably discharged veteran or military status, age, families with children status, marital status, sexual orientation, or source of income of such person or group of persons or of the prospective occupants or tenants of such real property in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of, any such financial assistance or in the extension of services in connection therewith; or

2. Use any form of application for such financial assistance, or make any record of inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination, on the ground of race, creed, color, religion, ancestry, national origin, citizenship or immigration status, gender, the presence of any sensory, mental, or physical disability or use of a dog guide or service animal by a person with a disability, honorably discharged veteran or military status, age, families with children status, marital status, sexual orientation or ~~use of federal housing assistance~~ the source of income.

D. An owner, person, real estate broker, agent, ~~salesman~~ salesperson, employee, or lender shall not:

1. Require any information, make or keep any record, or use any form of application containing questions or entries concerning race, creed, color, religion, ancestry, national origin, citizenship or immigration status, gender, the presence of any sensory, mental, or physical disability or use of a guide dog or service animal by a person with a disability, honorably discharged veteran or military status, age, families with children status, marital status, sexual orientation, or source of income in connection with the sale, rental, lease or sublease of any housing accommodation;

2. Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement, or sign of any kind relating to the sale, rental, lease, sublease, assignment, transfer or listing of a housing accommodation or accommodations which indicate any preference, limitation, specification, or discrimination based on race, creed, color, religion, ancestry, national origin, citizenship or immigration status, gender, the presence of any sensory, mental, or physical disability, honorably discharged veteran or military status, age, families with children status, marital status, sexual orientation, or source of income;

3. Aid, abet, incite, compel, or coerce the doing of any act defined in this chapter as an unfair housing practice, or obstruct or discriminate against a person in any manner because he/she has complied, or proposes to comply, with the provisions of this chapter or has filed a complaint, testified, or assisted in any proceeding under this chapter, or any order issued thereunder, or attempt, either directly or indirectly, to commit any act defined in this chapter to be an

unfair housing practice, or apply any economic sanctions or deny any membership privileges because of compliance with the provisions of this chapter.

(Ord. O2020-019, Amended, 08/04/2020; Ord. O2010-022, Added, 12/21/2010)

Section 5. Section 5.70.050 of the Tumwater Municipal Code is hereby amended to read as follows:

5.70.050 Exclusions.

A. Nothing in this chapter shall:

1. Prohibit a religious organization, association or society, or any nonprofit 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 commercial purpose to persons of the same religion, or from giving preference to such persons; provided, that:

a. Membership in such religion is not restricted on account of race, color, or national origin;

b. Such limitation or preference is reasonably in the furtherance of a religious purpose or activity, as of the date of passage of the ordinance codified in this chapter;

2. Prohibit any person from limiting the rental or occupancy of housing accommodation in any sorority, fraternity, school dormitory or similar residential facility to persons of one sex where considerations of personal privacy exist;

3. Be interpreted to prohibit any person from making a choice among prospective purchasers or tenants of real property on the basis of factors other than race, creed, color, religion, ancestry, national origin, citizenship or immigration status, gender, the presence of any sensory, mental, or physical disability, honorably discharged veteran or military status, age, families with children status, marital status, sexual orientation, or source of income;

4. Apply the provisions of this chapter prohibiting discrimination based on familial status to housing for older persons as defined by the Federal Fair Housing Amendments Act of 1988, 42 U.S.C. 3607(B)(1) through (3) as amended by the Housing for Older Persons Act of 1995, P.L. 104-76, as enacted on December 28, 1995, or hereafter amended.

B. To the extent that distinction or differential treatment on the basis of citizenship or immigration status is authorized by federal or state law, regulation, or government contract, it is not an unfair practice.

C. Nothing in this chapter shall apply to the renting, subrenting, leasing or subleasing of a single-family or duplex dwelling unit wherein the owner or person

entitled to possession thereof normally maintains, or intends to maintain, a permanent residence, home or abode.

(Ord. O2020-019, Amended, 08/04/2020; Ord. O2010-022, Added, 12/21/2010)

Section 6. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 7. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 8. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 9. Effective Date. This ordinance shall become effective thirty (30) days after passage, approval, and publication as provided by law.

ADOPTED this _____ day of _____, 2022.

CITY OF TUMWATER

Debbie Sullivan, Mayor

ATTEST:

Melody Valiant, City Clerk

APPROVED AS TO FORM:

Karen Kirkpatrick, City Attorney

Published:_____

Effective Date:_____