

## ORDINANCE NO. 12701

**AN ORDINANCE** relating to fair housing, and adding chapter 10.10 to the Thurston County Code.

WHEREAS, Chapter 49.60 RCW prohibits housing discrimination on the basis of race, creed, color, national origin, families with children, sex, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person; and

WHEREAS, Chapter 49.60 RCW does not prohibit housing discrimination on the basis of sexual orientation; and

WHEREAS, the cities of Lacey, Olympia and Tumwater have city ordinances prohibiting housing discrimination on the basis of sexual orientation; and

WHEREAS, Thurston County has no ordinance to prohibit housing discrimination on the basis of sexual orientation; and

WHEREAS, the Board of County Commissioners recognize that it is in the public interest to prohibit housing discrimination on the basis of sexual orientation in certain situations; and

WHEREAS, people who are discriminated on the basis of sexual orientation in obtaining housing in unincorporated Thurston County have no legal recourse; and

WHEREAS, the Board of County Commissioners recognize that it is in the public interest to provide individuals who have been subject to housing discrimination on the basis of sexual orientation a legal remedy; and

WHEREAS, the Board of County Commissioners respect the right of individual homeowners to have complete discretion in whom they chose to share their home with; and

WHEREAS, the Board of County Commissioners recognize that it is in the public interest to encourage parties to participate in mediation and arbitration where complaints regarding housing discrimination on the basis of sexual orientation are filed; and

WHEREAS, the Board of County Commissioners recognize that it is in the public interest to have housing discrimination complaints, with the exception of housing discrimination complaints on the basis of sexual orientation, be filed pursuant to Chapter 49.60 RCW; and

WHEREAS, the Board of County Commissioners held a public hearing, pursuant to notice, on December 13, 2001 to consider this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THURSTON COUNTY as follows:

Section 1. Chapter 10.10 is added to the Thurston County Code to read as follows:

## Chapter 10.10 FAIR HOUSING

- 10.10.010 Purpose
- 10.10.020 Definitions.
- 10.10.030 Unfair housing practices-Generally.
- 10.10.040 Unfair housing practices-Designated.
- 10.10.050 Unfair housing practices-Real estate related transactions.
- 10.10.060 Exceptions
- 10.10.070 Filing of a complaint -Under the jurisdiction of the human rights commission
- 10.10.080 Filing of a complaint-Sexual orientation
- 10.10.090 Mediation of a complaint - Sexual orientation
- 10.10.095 Voluntary arbitration
- 10.10.100 Enforcement by private persons.
- 10.10.110 Authorization to implement procedures.
- 10.10.120 Severability.

**10.10.010 Purpose.** This chapter is an exercise of the police power of Thurston County for the protection of the public welfare, health, peace and safety of the citizens of Thurston County and in fulfillment of the provisions of the Constitution of this state. The Thurston County commissioners finds and declares that practices of housing discrimination against any persons on the basis of race, creed, color, national origin, families with children, sex, sexual orientation, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person constitute matters of local concern and are contrary to the public welfare, health, peace and safety of the citizens of Thurston County. The provisions of this chapter shall be liberally construed for accomplishment of its policies and purposes.

**10.10.020 Definitions.** Definitions as used in this chapter, unless additional meaning clearly appears from the context, shall have the meanings subscribed:

- A. "Charging party" means any person alleging an unfair housing practice under this chapter.
- B. "Real estate-related transaction" means any of the following:
  - 1. The making or purchasing of loans or providing other financial assistance:
    - a. for purchasing, construction, improving, repairing, or maintaining real property; or
    - b. secured by real property.
  - 2. The selling, brokering, or appraising of real property.
- C. "Chief Administrative Officer" means the chief administrative officer of the County Administrative Office or his or her designee.
- D. "Discriminate" means any action or failure to act, whether by single act or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals, because of race, creed, color, national origin, sex, sexual orientation or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person.
- E. "Dwelling" and "dwelling unit" mean any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families or individuals, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- F. "Senior citizens" means persons who are sixty-two years of age or older.
- G. "Housing accommodations" means any dwelling or dwelling unit, rooming unit, rooming house, lot or parcel of land in unincorporated Thurston County 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.
- H. "Marital status" means the presence or absence of a marital relationship and includes the status of married, separated, divorced, engaged, widowed, single or cohabiting.
- I. "National origin" shall be interpreted to include ancestry.

J. "Party" means the person charging or making a complaint or upon whose behalf a complaint is made alleging an unfair practice, or the person alleged or found to have committed an unfair practice.

K. "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.

L. "Person" means one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers or any group of persons; it includes any owner, lessee, proprietor, manager, agent or employee whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof.

M. "Aggrieved person" includes any person who:

1. Claims to have been injured by a discriminatory housing practice;
2. Believes that he or she will be injured by a discriminatory housing practice that is about to occur.

N. "Real property" includes but is not limited to buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

O. "Real estate transaction" includes but is not limited to the sale, conveyance, exchange, purchase, rental, lease or sublease of real property.

P. "Respondent" means any person who is alleged to have committed an unfair practice prohibited by this chapter.

Q. "Sexual orientation" means male or female heterosexuality, bisexuality or homosexuality, and includes a person's attitudes, preferences, belief and practices pertaining to sex, but shall not include conduct which is a public or private nuisance or is unlawful under county, state or federal law.

R. "Disability" means, with respect to a person:

1. A physical or mental impairment which substantially limits one or more of such person's major life activities, either temporarily or permanently,
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 a controlled substance (as defined in section 102 of the Controlled Substances Act as of the date of passage of this section (21 U.S.C. 802)),
4. Any other condition which is a disability under the Washington State Law Against Discrimination as it pertains to real estate (RCW 49.60).

S. "Use of a trained dog guide by a person with a disability" means the use of a "guide dog" as defined in RCW 70.84.020 by a blind or hearing impaired person and/or the use of a "service dog" as defined in RCW 70.84.021 by a person with a physical disability.

**10.10.030 Unfair housing practices - Generally.** It is unlawful for any person to engage in, or cause or allow another to engage in, any of the following acts described in Sections 10.10.040 through 10.10.050, which are designated as unfair housing practices prohibited by this chapter.

**10.10.040 Unfair housing practices - Designated.**

A. It is a discriminatory practice for any person, whether acting for himself or another, because of race, creed, color, national origin, families with children, sex, sexual orientation, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person:

1. To refuse to engage in a real estate transaction with a person or to otherwise make unavailable or deny a dwelling to any person;
2. To discriminate against a person in the terms, conditions or privileges of a real estate transaction, including but not limited to financial terms and conditions such as the setting of rents or

damage deposits, or in the furnishing of facilities or services in connection with any real estate transaction; however, rents and damage deposits may be adjusted to recognize the number of persons utilizing the property except insofar as such adjustment might discriminate based on race, color, religion, national origin, age, sex, marital status, parental status, sexual orientation, disability, or the use of a trained assistance dog by a person with a disability;

3. To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;

4. To refuse to negotiate for a real estate transaction with a person;

5. To represent to a person that real property is not available for inspection, sale, rental or lease when in fact it is so available, or to fail to bring a property listing to his attention, or to refuse to permit him to inspect real property;

6. To make, print, circulate, publish, post or mail or cause to be so made or published a statement, advertisement or sign, or to use a form of application for a real estate transaction, or to make a record of inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, preference or discrimination with respect thereto;

7. To offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith;

8. To expel a person from occupancy of real property;

9. To discriminate against in the course of negotiating, executing or financing a real estate transaction whether by mortgage, deed of trust, contract or other instrument imposing a lien or other security in real property or in negotiating or executing any item or service related thereto including issuance of title insurance, mortgage insurance, loan guarantee or other aspect of the transaction.

10. To 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 dwellings, or to discriminate against any person in the terms or conditions of such access, membership, or participation;

B. It is a discriminatory practice for any person, whether acting for himself or for another, to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter;

C. It is a discriminatory practice for any person, whether acting for himself or for another, to discriminate against in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

1. That buyer or renter, and/or

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

3. Any person associated with that buyer or renter.

D. It is a discriminatory practice for any person, whether acting for himself or another, to 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 disability of:

1. That person, and/or

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

3. Any person associated with that buyer or renter.

E. For the purposes of this chapter, discrimination based on disability and/or the use of a trained dog guide includes:

1. To refuse to permit, at the expense of the person with a disability, 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 and exterior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

2. To refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person or persons with disabilities equal opportunity to use and enjoy a dwelling; or
3. To fail to design, construct and alter dwellings in conformance with the Federal Fair Housing Act as amended (42 U.S.C. et seq.) as of the date of passage of this section, the Washington State Barrier Free Regulations (Chapter 51.20 of the W.A.C., as required by RCW 19.27 and 70.92), regulations promulgated under these statutes, and all other applicable laws pertaining to access by persons with disabilities; whenever the requirements of applicable laws differ, the requirements which require greater accessibility for persons with disabilities will govern.

**10.10.050 Unfair housing practices - Real estate-related transactions.** It is a discriminatory practice for any person, whether acting for himself or another in connection with any real estate-related transaction, whose business includes engaging in real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, creed, color, national origin, families with children, sex, sexual orientation, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person; provided that, nothing in this subsection shall prohibit any party to a real estate transaction or real estate-related transaction from considering the capacity to pay and credit history of any individual applicant.

**10.10.060 Exceptions.** 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 a 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 this section.
  2. Prohibit any person from limiting the rental or occupancy of housing accommodations in any YWCA, YMCA, sorority, fraternity, school dormitory or similar residential facility to persons of one sex where considerations of personal privacy exist.
  3. Prohibit any person from limiting the sale, rental or occupancy of housing accommodations to persons with disabilities in any housing facility operated for persons with disabilities or to senior citizens in any housing facility operated exclusively for senior citizens.
  4. Require any person to rent or lease a housing accommodation to a minor.
  5. Require or permit any sale, rental or occupancy otherwise prohibited by law.
  6. 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, national origin, families with children, sex, sexual orientation, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person.
  7. Prohibit any person from placing limitations on the maximum number of tenants permitted per unit on account of reasonable space limitations or requirements of law.
- B. 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.

**10.10.070 Filing of a complaint- Under the jurisdiction of the human rights commission.** A complaint alleging an unfair housing practice on the basis of race, creed, color, national origin, families with children, sex, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person shall be filed with the Washington State Human Rights Commission pursuant to Chapter 49.60 RCW.

**10.10.080 Filing of a complaint- Sexual orientation.** A. A complaint alleging an unfair housing practice on the basis of sexual orientation may be filed with the Chief Administrative Officer by any person who has reason to believe that an unfair housing practice is about to be or has been committed against him or her.  
B. A complaint alleging an unfair housing practice on the basis of sexual orientation shall be in writing and signed by the charging party. The complaint must be filed by the charging party with the Chief Administrative Officer within one hundred and eighty days after the occurrence or termination of the alleged unfair housing practice. The complaint must describe with particularity the practice complained of and the location of the practice and must identify the person being charged with committing an unfair housing practice; provided, that a complaint shall not be rejected as insufficient because of failure to include all required information, so long as it substantially meets the informational requirements necessary for processing.  
C. Upon the filing of a complaint, on the basis of sexual orientation, the Chief Administrative Officer shall notify the charging party and the respondent advising each party of the time limits provided under this chapter and of the choice of forums provided by this chapter.

**10.10.090 Mediation of a complaint-Sexual orientation.** Mediation may be requested by either party within 30 days after the notification of the charge of an unfair housing practice on the basis of sexual orientation. If mediation is requested by either party within 30 days, the Chief Administrative Officer will refer the complaint to the Thurston County Dispute Resolution Center for mediation. The mediator will notify the Chief Administrative Officer of the outcome of the mediation.

**10.10.095 Voluntary arbitration.** A. If the complaint is not resolved through mediation, the parties may stipulate to resolve the issues through mandatory arbitration pursuant to chapter 7.06 RCW, Superior Court Mandatory Arbitration Rules and Thurston County Local Superior Court Rules for Mandatory Arbitration.  
B. If the parties do not stipulate to mandatory arbitration, and the complaint is not resolved, the aggrieved party may commence a civil action pursuant to TCC 10.10.100.

**10.10.100 Enforcement by private persons.** A. A person aggrieved by an unfair housing practice on the basis of sexual orientation may commence a civil action in Thurston County Superior Court not later than one year after the occurrence or the termination of an alleged discriminatory housing practice, on the basis of sexual orientation, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice.

B. The computation of such one year period shall not include any time during which a mediation under this chapter was pending with respect to a complaint or charge under this chapter based upon such discriminatory housing practices.

C. An aggrieved person may not commence a civil action under this subsection unless the aggrieved party has attempted to mediate the complaint pursuant to TCC 10.10.090. Provided further that the civil action may not be commenced until 30 days after mediation has ended.

D. In a civil action under subsection A., if the court finds that a discriminatory practice has occurred or is about to occur, the court may order remedies as allowed by Chapter 49.60 RCW (Law Against Discrimination) and may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate). Reasonable attorney's fees and costs shall be awarded to the prevailing party.

E. Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrances, or tenant, without actual notice of the filing of a complaint with the director or civil action under this title.

**10.10.110 Authorization to implement procedures.** The Chief Administrative Officer is authorized to implement such forms, administrative processes, and operational procedures as are necessary to comply with

the provisions of this chapter.

**10.10.120 Severability.** Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the chapter or the validity of its application to other persons or circumstances.

Section 2: This ordinance shall take effect on January 28, 2002.

ADOPTED January 28, 2002.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
Thurston County, Washington

/s/ LaBonita I. Bowmar  
Clerk of the Board

/s/ Cathy Wolfe  
Chairman

APPROVED AS TO FORM:

EDWARD G. HOLM  
PROSECUTING ATTORNEY

/s/ Diane Oberquell  
Commissioner

By: /s/ Elizabeth Petrich  
Elizabeth Petrich  
Deputy Prosecuting Attorney

Excused Absense  
Commissioner