

**Ordinance \_\_\_\_\_**

**NON-DISCRIMINATION ORDINANCE – AN ORDINANCE AMENDING CHAPTER 16 OF  
THE MONTEVALLO MUNICIPAL CODE**

**Whereas**, the City of Montevallo desires to affirm the dignity and worth of each citizen of this city regardless of sexual orientation, gender identity, single and family members, the handicapped, and people of all ethnic groups, age, color, religion, and national origin;

**Now, therefore, be it hereby ordained by the City of Montevallo, Alabama that Chapter 16 of the City of Montevallo Municipal Code be amended to include the following:**

**Chapter 16 - OFFENSES AND MISCELLANEOUS PROVISIONS**

**Article IV. - NON DISCRIMINATION ORDINANCE**

**Division 1 - FAIR HOUSING POLICY**

**Sec. 16-70. - Policy.**

Within constitutional limits, it is the policy of the city to provide for fair housing throughout the city.

**Sec. 16-71. - Purpose.**

The enactment of this division does hereby affirm the dignity and worth of each citizen of this city regardless of sexual orientation, gender identity, single and family members, the handicapped, and people of all ethnic groups, age, color, religion, and national origin. The city has therefore declared that acts of prejudice, intolerance, discrimination, and disorderly conduct in connection with fair housing choice, threaten the rights and privileges of its inhabitants, consequently damaging the image and foundation of the city. This division seeks to terminate and prevent any of said violations.

**Sec. 16-72 - Definitions.**

The following words and phrases used in this division shall have the following respective meanings:  
*ADECA*. The Alabama Department of Economic and Community Affairs.

*Covered multifamily dwellings*.

- (1) Building consisting of four (4) or more units if the buildings have one (1) or more elevators; and
- (2) Ground floor units in other buildings consisting of four (4) or more units.

*Discriminatory housing practice*. An act that is unlawful under this division.

*Dwelling*. Any building or structure, or portion of any building or structure, which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location on it of any such building or structure, or portion of it.

*Familial status.*

(1) One (1) or more individuals who have not attained the age of eighteen (18) years and are domiciled with:

- a. A parent or another person having legal custody of the individual; or
- b. The designee of the parent or other person having the custody, with the written permission of parent or other person.

(2) The protections afforded against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing custody of any individual who has not attained the age of eighteen (18) years.

*Gender identity.* The actual or perceived gender-related identity, expression, appearance, or mannerisms, or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.

*Handicap.* With respect to a person:

- (1) A physical or mental impairment which substantially limits one (1) or more of the person's major life activities;
- (2) A record of having such an impairment; or
- (3) Being regarded as having an impairment. The term "handicap" excludes current, illegal use of or addiction to a controlled substance as defined by law.

*Housing for older persons.* Housing:

- (1) Provided under any state or federal program that the attorney general determines is designed specifically and operated to assist elderly persons, as defined in the state or federal program; or
- (2) Intended for, and solely occupied by persons sixty-two (62) years of age or older; or
- (3) Intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older for each unit, and meeting the regulations as established by ADECA.

*Person.* One (1) or more individuals, corporations, partnerships, limited liability companies, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

*Sexual orientation.* Actual or perceived homosexuality, heterosexuality, or bisexuality.

*To rent.* To lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

**Sec. 16-73. - Unlawful discriminatory housing practices.**

It shall be unlawful:

- (A) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, or otherwise to make unavailable or deny a dwelling to any person because of race, color, religion, sex, gender identity, sexual orientation, handicap, familial status, or national origin;
- (B) To discriminate against any person in the terms, conditions, or privileges of sale or rent of a dwelling, or in the provision of services or facilities in connection with it, because of race, color, religion, sex, gender identity, sexual orientation, handicap, familial status, or national origin;
- (C) To make, print or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rent of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, gender identity, sexual orientation, handicap, familial status, or national origin or an intention to make the preference, limitation, or discrimination;
- (D) To represent to any person because of race, color, religion, sex, gender identity, sexual orientation, handicap, familial status, or national origin that any dwelling is not available to inspection, sale or rental when the dwelling is available;
- (E) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons

of a particular race, color, religion, sex, gender identity, sexual orientation, handicap, familial status, or national origin;

(F) To 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:

1. That buyer or renter;
2. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available, or
3. Any person associated with that buyer or renter;

(G) To discriminate against a person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with the dwelling, because of a handicap of:

1. That person;
2. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
3. Any person associated with that person.

**Sec. 16-74. - Discrimination in services, organizations, or facilities relating to business of selling or renting dwellings.**

It shall be unlawful 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 him or her in the terms or conditions of the access, membership, or participation on account of race, color, religion, sex, gender identity, sexual orientation, handicap, familial status, or national origin.

**Sec. 16-75. - Discrimination in residential real estate related transactions.**

(A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of the transaction, because of race, color, religion, sex, gender identity, sexual orientation, handicap, familial status, or national origin.

(B) As used in this section, "residential real estate related transaction" means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:
  - (a) For purchase, construction, improvement, repairing, or maintaining a dwelling; or
  - (b) Secured by residential real estate; or
- (2) The selling, brokering or appraising of residential real property.

(C) Nothing in this division 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, gender identity, sexual orientation, handicap, or familial status.

**Sec. 16-76. - Exemptions.**

(A) Except for subdivision (C) of section 16-73, sections 16-73 and 16-75 do not apply to rooms or units in dwellings containing living quarters or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of the living quarters as his or her residence.

(B) Sections 16-73 and 16-75 do not apply to any single-family house sold or rented by an owner when:

- (1) The private individual owner does not own more than three (3) single-family houses at any one time; and
- (2) In the sale of any single-family house by a private individual owner not residing in the house at the time of the sale or who was not the most recent resident of the house before the sale, the

exemption granted by this subsection shall apply only with respect to one (1) sale within a twenty-four-month period; and

(3) A bona fide private individual owner does not own an interest in, nor is there owned or reserved on the owner's behalf, under any express or voluntary agreement, title to or a right to all or a portion of the proceeds from the sale or rental of more than three (3) single-family houses at any one time.

(C) The sale or rental of a single-family house is excepted from the application of this division only if the house is sold or rented without both of the following:

(1) The use in any manner of the sale or rental facilities or the sales or rental services of a real estate broker, agent, or salesperson, or of the facilities or services of a person in the business of selling or renting dwellings, or of an employee or agent of a broker, agent, salesperson or person, and

(2) The publication, posting, or mailing, after notice, of an advertisement or written notice in violation of this division. Nothing in this subsection prohibits the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer title.

(D) For the purposes of this section, a person is considered to be in the business of selling or renting dwellings under any of the following circumstances:

(1) The person has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest in it.

(2) The person has, within the preceding twelve (12) months, participated as agent, other than in the sale of his or her personal residence, in providing sales or rental facilities or services in two (2) or more transactions involving the sale or rental of any dwelling or any interest in it.

(3) The person is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

(E) This division shall not 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 any dwelling which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to those persons, unless membership in the religion is restricted because of race, color, or national origin. This division shall not prohibit a private club not in fact opened to the public, which as an incident to its primary purpose provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

(F) This division shall not prohibit conduct against a person because the person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by law.

(G) For purposes of subdivision (F) of Section 16-73, the term "discrimination" includes any of the following conduct:

(1) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford that person full enjoyment of the premises, except that in the case of a rental, the landlord, where it is reasonable to do so, may 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 accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after the effective date of this division, a failure to design and construct those dwellings in such a manner that:

- (a) The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;
- (b) The dwelling has at least one (1) building entrance on an accessible route unless it is impracticable to do so because of the terrain or unusual characteristics of the site;
- (c) All the doors designed to allow passage into and within all premises within the dwelling are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
- (d) All premises within these dwellings contain the following features of adaptive design:
  - (i) An accessible route into and through the dwelling;
  - (ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
  - (iii) Reinforcements in the bathroom walls to allow later installation of grab bars; and
  - (iv) Usable kitchens and bathrooms that an individual in a wheelchair can maneuver about the space.
- (H) Compliance with the appropriate requirements of the American National Standard for Building and Facilities Providing Accessibility and Usability for Physically Handicapped People (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of subsection (G)(3)(d). Nothing in this division shall be construed to require the city to review or approve the plans, design, or construction of all covered multifamily dwellings, to determine whether the design and construction of these dwellings are consistent with the requirements of subsection (G)(3). Nothing in this division shall be construed to invalidate or limit any rule, regulation, resolution, section, or ordinance that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this division.
- (I) Nothing in this division with respect to discrimination based on handicap requires that a dwelling be made available to an individual whose occupancy would constitute a direct threat to the health or safety of other individuals or whose occupancy would result in substantial physical damage to the property of others.
- (J) Nothing in this division limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Owners and managers of dwellings may develop and implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and the overall size of a dwelling unit so long as the standards do not violate local, state, or federal restrictions. The provisions in this division regarding familial status shall not apply to housing for older persons. This chapter shall not prohibit the lease application or similar document from requiring information concerning the number, age, sex, and familial relationship of the applicants and the dwellings' intended occupants. The owner or manager may consider these factors in determining payment of utilities. The application also may require disclosure by the applicant of the conviction of any intended occupant for violating any laws pertaining to the illegal manufacture or distribution of a controlled substance as defined by law.
- (K) Section 16-73 with respect to discrimination based on sex does not apply to the rental or lease of dwellings in a single-sex dormitory property.

**Sec. 16-77. - Interference with person in exercise of right granted under chapter.**

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the enjoyment of, exercise of, or the aid or encouragement of any other person in the exercise of any right granted under this division.

**Sec. 16-78. - Complaints.**

The city clerk's office is the official depository for all bona fide complaints from person(s) who have been aggrieved by any violation of unfair housing practices under this division. The city clerk is only responsible for hearing and making suggestions to the complainant regarding his or her complaint.

The enforcement of violations will be directed to the Greater Birmingham Fair Housing Center, the Alabama Department of Economic and Community Affairs, or the U.S. Department of Housing and Urban Development (HUD), as the complainant may elect.

**Sec. 16-79 - Penalty for violation.**

A violation of this division may be punished by a fine of not more than one hundred dollars (\$100.00) at the discretion of the municipal court. Each day that any violation continues shall constitute a separate offense.

**Division 2 - Municipal contracts**

**Sec. 16-80. - Nondiscrimination provisions to be included in municipal contracts.**

The city and all city departments and agencies shall include in every municipal contract hereafter entered into the following provisions:

“During the performance of this contract the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin or disability. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, gender identity, sexual orientation, handicap, familial status, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the city setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualifying applicants will receive consideration for employment without regard to race, color, religion, sex, gender identity, sexual orientation, handicap, familial status, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the city, advising the labor union or worker's representative of the contractor's commitments under this section, and shall post copies of such notice in conspicuous places available to employees and applicants for employment.

(4) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further municipal contracts.

(5) The contractor will include the provisions of this section in every subcontract or purchase order unless exempted by written orders of the governing body of the city so that such provisions will be binding upon each subcontractor or vendor.”

**Division 3 – Unlawful discrimination**

**Sec. 16-90. - Purpose.**

By enacting this division, it is the purpose and intent of the City Council of Montevallo, Alabama, to protect the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status, and to promote the public health and welfare of all persons who live and work in the City of Montevallo.

**Sec. 16-91. - Definitions.**

The definitions contained in Sec. 16-72 shall also apply to this division. Also, for the purposes of this division, the following terms shall have the following meanings:

*Age.* An individual's status as having obtained forty or more years of age.

*Discriminate, Discrimination, or Discriminatory.* Any act, policy or practice that, regardless of intent, having the effect of subjecting any person to differential treatment as a result of that person's real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status.

*Employee.* Any individual employed by or seeking employment from an employer, excluding any individual employed by his or her parents, spouse, or child.

*Employer.* A person who employs one or more employees in the City of Montevallo, or any agent of such person. Employer shall include the City of Montevallo and any city contractor.

*Marital Status.* An individual's past, current, or prospective status as single, married, divorced, or widowed.

*National Origin.* An individual's or his or her ancestor's place of origin.

*Place of Public Resort, Accommodation, Assemblage, or Amusement.* Any place, store, or other establishment, either licensed or unlicensed, that supplies accommodations, goods, or services to the general public, or that solicits or accepts the patronage or trade of the general public, or that is supported directly or indirectly by government funds. The term does not include any of the following:

- a. Any lodging establishment which contains not more than three rooms for rent and which is actually occupied by the proprietor of such establishment as a primary residence.
- b. Any private club, bona fide membership organization, or other establishment that is not in fact open to the public.

*Religion.* All aspects of religious belief, observance, and practice.

*Veteran Status.* An individual's status as one who served in the active military, naval or air service, and who was discharged or released under conditions other than dishonorable.

**Sec. 16-92. - Civil Rights Declared.**

The right of an otherwise qualified person to be free from discrimination because of that person's real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status is recognized as and declared to be a civil right, the deprivation of which is declared to be a violation of this division subject to penalty as provided in Sec. 16-95. This right shall include, but not be limited to, all of the following:

1. The right to obtain and hold employment and the benefits associated therewith without discrimination.
2. The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement without discrimination.
3. The right to engage in property transactions, including obtaining housing for rental or sale and credit therefore, without discrimination.
4. The right to exercise any right granted under this division without suffering coercion or retaliation.

**Sec. 16-93. - Exceptions.**

Notwithstanding the foregoing, the following are not discriminatory practices prohibited by Sec. 16-92 of this division:

1. A religious corporation, association, or society that employs an individual of a particular religion to perform work connected with the performance of religious activities by the corporation, association, or society.

2. An employer who observes the conditions of a bona fide affirmative action plan or a bona fide seniority system which is not a pretext to evade the purposes of this ordinance.

**Sec. 16-94. - Complaints.**

The city clerk's office is the official depository for all bona fide complaints from person(s) who have been aggrieved by any violation under this division. The city clerk is only responsible for hearing and making suggestions to the complainant regarding his or her complaint. Complaints will be directed at the discretion of the complainant to the Montevallo Human Rights Commission or municipal court for imposition of a penalty as provided in Sec. 16-95 of this division.

**Sec. 16-95 - Penalty for violation.**

A violation of this division may be punished by a fine of not more than one hundred dollars (\$100.00) at the discretion of the municipal court. Each day that any violation continues shall constitute a separate offense.

**Division 4 – Montevallo Human Rights Commission**

**Sec. 16-96 – Creation of Montevallo Human Rights Commission.**

There is hereby created the Montevallo Human Rights Commission (“Commission”). Its purpose shall be to promote principles of diversity, inclusion, and harmony in the City of Montevallo through education, community events, the provision of advice to the City Council and Mayor, and through receiving and resolving complaints filed under this ordinance, to be then passed to the municipal court with recommendations.

**Sec. 16-97 – Composition and term.**

**Composition.** The Commission shall be composed of not more than 9 members who shall be broadly representative of the population of the city, including representatives of the communities enumerated in Division 3 of this Article. The Mayor shall appoint the members of the Commission subject to confirmation by a vote of the City Council. Members shall serve for 3 years and may be reappointed.

**Sec. 16-98 - Governance.**

The Commission shall formulate its own procedures, and may create task forces or committees as it deems appropriate. These procedures are subject to review by the Mayor and City Council.

**Sec. 16-99 - Responsibilities.**

The responsibilities of the Commission include managing Commission records and accounts, developing public education programs, providing training for Commission members, managing citizen complaints, and any other tasks needed to help the Commission perform its functions. It may use the services of attorneys, clerks, or other city government employees or the services of contractors as necessary.

**Sec. 16-100 - Activities.**

The Commission shall receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon complaints alleging violations of Division 3 of this Article. If it is deemed there is a violation of this Article, it shall be passed on to the municipal court for imposition of penalty per section 16-95. It shall present an annual report to the Mayor and City Council of its activities; it shall develop public education programs regarding compliance with this ordinance and equal

opportunity and treatment of all individuals; and it shall engage in any other necessary action to effectuate its purpose and duties.

**Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2017.**

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**Hollie C. Cost, Mayor**

**ATTEST:**

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**Herman Lehman, City Clerk & Treasurer**