

ORDINANCE NO. 581

AN ORDINANCE OF THE CITY OF FOSTER CITY ADDING CHAPTER 5.72, TENANT ANTI-DISCRIMINATION, OF TITLE 5, BUSINESS LICENSE AND REGULATION, TO THE FOSTER CITY MUNICIPAL CODE – MC-13-001

CITY OF FOSTER CITY

THE CITY COUNCIL OF THE CITY OF FOSTER CITY DOES FIND AND ORDAIN as follows:

Section 1: The City Council of the City of Foster City, California, hereby finds and determines:

WHEREAS, the City of Foster City desires to eliminate any discrimination in the provision of housing based on a person's race, color, religion, sex, national origin, familial status, disability or source of funds for rental payments; and

WHEREAS, the San Mateo County Housing Authority, which administers the Section 8 rent subsidy program, reports a shortage of landlords participating in the Section 8 program, and that approximately 50% who qualify for Section 8 rental assistance are unable to benefit from it because of the unavailability of participating landlords; and

WHEREAS, cities are required to identify constraints to providing affordable housing and develop strategies for removing those constraints; and

WHEREAS, the following provisions of the Housing Element of the City of Foster City's General Plan reflect the City's intention to ensure provision of housing opportunities for all people:

Policy H-F-1 Equal Housing Opportunity. The City will ensure provision of housing opportunities for all people and will take appropriate actions when necessary to ensure that the sale, rental, or financing of housing is not denied to any individual on the basis of race, sex, national origin, religion, age or other arbitrary factors.

*Implementation Measure H-F-1-a **Non-Discrimination.** To ensure that the sale, rental, or financing of housing is not denied to any individual on the basis of race, sex, national origin, religion, age, marital status, disability, or other arbitrary factors, Foster City will ensure that state and federal laws are adhered to regarding fair housing. The City, through its Community Development Department, will refer discrimination complaints to the appropriate legal service, county, or state agency. The City will assist local non-profit organizations, as appropriate, to provide public*

information and education services. Target: Ongoing. Responsible Agency: Community Development Department.

*Implementation Measure H-F-1-b **Anti-Discrimination Ordinance and Zoning Definitions.** Adopt an Anti-Discrimination Ordinance to prohibit discrimination based on the source of a person's income or the use of rental subsidies, including Section 8 and other rental programs that provide extremely low, very low, and low income housing assistance. In addition, amend the definition of a "family" in the Zoning Ordinance to comply with State Law so that it does not preclude special needs housing (see also Program H-D-9-h). Target: 2011. Responsible Agency: Community Development Department.*

WHEREAS, Government Code Section 65583 requires that the Housing Element address and, where appropriate and legally possible, remove governmental constraints to making adequate provision for the existing and projected housing needs of all economic segments of the community; and

WHEREAS, the Planning Commission by adoption of Resolution P-25-13 on August 15, 2013, recommended approval of the proposed amendment; and

WHEREAS, the proposed ordinance is exempt from the California Environmental Quality Act (CEQA) under Public Resources Code Section 15061(b)(3) because it does not have the potential for causing a significant effect on the environment.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF FOSTER CITY, CALIFORNIA, ORDAINS THAT:

Section 2. A new Chapter 5.72 shall be added to Title 5, Business Licenses and Regulation, of the Foster City Municipal Code as follows:

Chapter 5.72
Tenant Anti-Discrimination

Sections:

- 5.72.010 Purpose and Findings.
- 5.72.020 Right to Protection.
- 5.72.030 Exceptions
- 5.72.040 Redress
- 5.72.050 Liability.

5.72.010 Purpose and Findings.

A. Housing is an essential requirement for all residents of an urban area. Housing Element Policy H-F-1 of the Foster City General Plan states, "The City will ensure provision of housing opportunities for all people and will take appropriate actions when necessary to ensure that the sale, rental, or financing of housing is not denied to any

individual on the basis of race, sex, national origin, religion, age or other arbitrary factors.”

B. The City from time to time receives complaints that tenants who qualify for Section 8 rental assistance are unable to benefit from it because of the unavailability of participating landlords.

C. The purpose of this ordinance is to establish a right of existing tenants to be free of discrimination based on their use of a rental subsidy.

5.72.020 Right to Protection.

It shall be unlawful for the owner or manager of rental housing to discriminate against an existing tenant on the basis of that tenant’s use of a Section 8 or any other rent subsidy. It shall be a violation of this prohibition for a property owner or manager to refuse to accept a Section 8 or any other rent subsidy for which an existing tenant qualifies, or to terminate the tenancy of an existing tenant based on the property owner’s or manager’s refusal to participate in a Section 8 or any other rent subsidy Program for which an existing tenant has qualified.

5.72.030 Exceptions.

Nothing in this Chapter shall be construed to apply to rental or leasing of any housing unit located in a structure on the same property containing ten or fewer units.

5.72.040 Redress

- A. A person whose rights have been violated under this Chapter may not commence a civil action to enforce those rights unless he or she has first offered to mediate the controversy. The complainant’s obligations under this section shall be met if the complainant:
- a. Offers to mediate the controversy under the auspices of the Peninsula Conflict Resolution Center, or any free mediation service that the City may establish for this purpose in the future;
 - b. Mediates in good faith. The complainant’s obligations under this section shall be deemed satisfied if the opposing party does not agree to mediation within 14 days after being requested to mediate, or if no mediated resolution is reached within 30 days after being requested to mediate, despite the complainant’s good faith efforts.
- B. If a complaint of discrimination under this ordinance is not resolved through mediation, and the complainant has complied with his or her responsibilities under the foregoing subdivision, the complainant has the right to initiate a civil action for damages and injunctive relief. The litigating complainant shall file a courtesy copy of the lawsuit with the City Attorney.

5.72.050 Liability.

- A. The City shall not be liable for any damages, costs, or expenses which are the result of any act or omission of or any decision made by any person (e.g., mediator, arbitrator, or court) concerning an anti-discrimination right claim or a complainant’s assertions pertaining to rights granted or conferred by this Chapter.

- B. Under no circumstances shall the City have any responsibility or liability to enforce this Chapter or to seek any legal redress, civil or criminal, for any decision it or any other person makes concerning an anti-discrimination claim.
- C. Violations of this ordinance shall not constitute a crime.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 4. Taking Effect. This Ordinance shall take effect and be in force thirty (30) days from and after its adoption.

Section 5. Posting. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall have it posted in three (3) public places designated by the City Council.

This Ordinance was introduced and read on the 4th day of November, 2013, and passed and adopted on the 18th day of November, 2013, by the following vote:

AYES: Councilmembers Bronitsky, Kiesel, Okamoto, Perez and Mayor Frisella

NOES: None

ABSENT: None

ABSTAIN: None


PAM FRISELLA, MAYOR

ATTEST:


DORIS L. PALMER, CITY CLERK

CERTIFICATE OF POSTING

I, Doris L. Palmer, hereby certify as follows:

That I am, and at all time herein mentioned, was the duly acting and qualified City Clerk/District Secretary of the **City of Foster City/Estero Municipal Improvement District**, Foster City, San Mateo County, California.

I further certify to the proper posting of:

Ordinance No. 581, "Adding Chapter 5.72, Tenant Anti-Discrimination, of Title 5, Business License and Regulation, to the Foster City Municipal Code - MC-13-001 [First Reading November 4, 2013]"

in the following four public places of the **City of Foster City/Estero Municipal Improvement District**, Foster City, San Mateo County, California:

1. Federal Post Office, Charter Square
1050 Shell Boulevard
2. Recreation Center Lobby
650 Shell Boulevard
3. Council Chambers (not a mandatory posting site)
620 Foster City Boulevard
4. Foster City Public Library
1000 E. Hillsdale Boulevard

Executed at the **City of Foster City/Estero Municipal Improvement District**, Foster City, San Mateo County, California this 20th day of November, 2013.



Doris L. Palmer
City Clerk/District Secretary