

Chapter 101

FAIR HOUSING

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[HISTORY: Adopted by the Town Board of the Town of Westmoreland at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

§ 101-1. Title.

This chapter shall be known and may be cited as the "Town of Westmoreland Fair Housing Law."

§ 101-2. Purpose and enactment.

The purpose of this chapter is to provide and ensure fair housing opportunities for all persons within the Town of Westmoreland, County of Oneida, State of New York, under the applicable federal and state laws and regulations pertaining thereto, as the same may be amended from time to time, and under the authority of General Municipal and Town Law, hereby obtains, enacts and publishes this chapter.

§ 101-3. Definitions.

- A. General. For the purpose of this chapter, certain words or phrases herein shall be interpreted as follows, except where the context clearly indicates the contrary: words used in the singular include the plural; words used in the present tense include the future tense; the word "person" includes a corporation as well as an individual; and the word "shall" is always mandatory.
- B. Specific words or phrases. For the purpose of this chapter, certain terms or words herein shall be interpreted as follows:

AGGRIEVED PERSON — Shall have the meaning set forth in 42 U.S.C.A. § 3602(i), as amended.

COMPLAINANT — Shall have the meaning set forth in 42 U.S.C.A. § 3602(j), as amended.

CONCILIATION — Shall have the meaning set forth in 42 U.S.C.A. § 3602(m), as amended.

CONCILIATION AGREEMENT — Shall have the meaning set forth in 42 U.S.C.A. § 3602(m), as amended.

DISCRIMINATORY HOUSING PRACTICE — Shall have the meaning set forth in 42 U.S.C.A. § 3602(f) and 24 CFR Part 100, as amended, and shall include an act that is unlawful under §§ 3604, 3605, 3606 or 3617 of Chapter 45 of Title 42 of the United States Code, as amended.

DWELLING — Shall have the meaning set forth in 42 U.S.C.A. § 3602(b), as amended.

FAMILIAL STATUS — Shall have the meaning set forth in 42 U.S.C.A. § 3602(k), as amended.

FAMILY — Shall have the meaning set forth in 42 U.S.C.A. § 3602(c), as amended.

HANDICAP — Shall have the meaning set forth in 42 U.S.C.A. § 3602(h), as amended.

PERSON — Shall have the meaning set forth in 42 U.S.C.A. § 3602(d), as amended.

PREVAILING PARTY — Shall have the meaning set forth in 42 U.S.C.A. § 1988, as amended.

RESPONDENT — Shall have the meaning set forth in 42 U.S.C.A. § 3602(n), as amended.

TO RENT — Shall have the meaning set forth in 42 U.S.C.A. § 3602(e), as amended.

§ 101-4. Discrimination in sale or rental of housing.

Except as exempted by § 101-7, it shall be unlawful within the Town of Westmoreland to:

- A. Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status, or national origin.
- B. 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 therewith, because of race, color, religion, sex, handicap, familial status, or national origin.
- C. Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation or discrimination.
- D. Represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so 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 of a particular race, color, religion, sex, handicap, familial status, or national origin.
- F. Refuse a physically or mentally disabled person (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS related complex and mental retardation), that substantially limits one or more major life activities, to let make reasonable modifications to a dwelling or common use area, at the expense of the person with the disability, if necessary for the handicapped person to use the housing.
- G. Refuse to make reasonable accommodations in rules, policies, practices or services, if necessary, for the handicapped person to use the housing.

§ 101-5. Discrimination in financing of housing.

It shall be unlawful in the Town of Westmoreland for any bank, building and loan association, insurance company, or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, religion, sex, handicap, familial status, or national origin of such person or any person associated with him in connection with such loan or other financial assistance, or the purposes of such loan or other financial assistance, or the present or prospective owner, lessee, tenant, or occupant of the dwelling in relation to which such loan or other financial assistance is to be made or given, provided that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 101-7.

§ 101-6. Discrimination in provision of brokerage services.

It shall be unlawful within the Town of Westmoreland 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 in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, handicap, familial status, or national origin.

§ 101-7. Exemptions.

- A. Sales/rentals by owners. Nothing in § 101-4 (other than Subsection C) shall apply to the sales/rental by owners to owners' family members.
- B. Sales/rentals by religious organizations. Nothing in this chapter shall 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, unless membership in such religion is restricted on

account of race, color, sex, handicap, familial status, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose provides lodgings that 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.

§ 101-8. Administration.

- A. Any aggrieved person may file a complaint in person or by mail to:
 - (1) Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Washington, DC 20410-2000; or
 - (2) Any regional or field office of the U.S. Department of Housing and Urban Development; or
 - (3) The Town's Fair Housing Officer, who shall immediately file a copy thereof with the regional or field office of the U.S. Department of Housing and Urban Development, along with a request for a determination as to whether such complaint will be referred to said Officer for administrative disposition.
- B. A complaint may be filed with the assistance of an authorized representative of an aggrieved person, including any organization acting on behalf of an aggrieved person.
- C. No complaint shall be filed more than one year after an alleged discriminatory housing practice has occurred or terminated.
- D. A complaint shall be made on the form prescribed by the U.S. Department of Housing and Urban Development, and shall contain all of the information required therein and thereby.
- E. A complaint may be reasonably and fairly amended at any time as permitted by the U.S. Department of Housing and Urban Development or, upon referral, by the Town's Fair Housing Officer.
- F. The respondent may file an answer to any complaint not later than 10 days after receipt of notice from either the U.S. Department of Housing and Urban Development or the Fair Housing Officer of the filing of such complaint.
- G. Any complaint and any answer shall be affirmed by the person filing the same.
- H. Upon referral by the U.S. Department of Housing and Urban Development of a complaint duly filed therewith to the Fair Housing Officer, the Fair Housing Office shall:
 - (1) Serve notice, by certified mail or personal service, upon both the complainant and the respondent containing the following:
 - (a) Acknowledging the referral of the complaint, stating the date that the complaint was accepted for filing, and that the respondent must file an answer within 10 days;

- (b) Include a copy of the complaint;
 - (c) Advise the aggrieved person and the respondent of the time limits applicable to complaint processing and disposition, and of the procedural rights and obligations of the aggrieved person, under this chapter;
 - (d) Advise the aggrieved person and the respondent that the aggrieved person has the right to commence a civil action under Section 813 of the Fair Housing Act¹ in an appropriate U.S. District Court not later than two years after the occurrence or termination of the alleged discriminatory housing practice, and stating that the computation of said two-year period excludes any time during which this administrative proceeding is pending, and includes the time period during which an action arising from a breach of conciliation agreement under Section 814(b)(2) of the Fair Housing Act² is pending; and
 - (e) Advise the aggrieved person and the respondent that retaliation against any person because he or she made a complaint or testified, assisted, or participated in an investigation or conciliation under this chapter is a discriminatory housing practice that is prohibited under this chapter and Section 818 of the Fair Housing Act.³
- I. The Town's Supervisor or his/her designated agent is hereby designated to be the administrative enforcement officer of this chapter, and the following powers and duties are hereby delegated to him/her:
- (1) To investigate the allegations of any complaint, including the power to issue subpoenas in connection with such investigation, and complete the investigation in not more than 100 days after receipt of the complaint, unless it is impracticable to do so in which event he/she shall notify the complainant and the respondent, in writing, of the reasons therefor.
 - (2) Following completion of the investigation, to issue a final investigative report, which may be amended at any time if additional evidence is discovered, containing at least the following:
 - (a) The names and dates of contact with witnesses;
 - (b) A summary of each witness' statement;
 - (c) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
 - (d) A summary description of other pertinent records;
 - (3) To conciliate the matters set forth in any complaint and approve any conciliation agreement arising out of such conciliation efforts.

1. Editor's Note: See 42 U.S.C.A. § 3613.

2. Editor's Note: See 42 U.S.C.A. § 3614(b)(2).

3. Editor's Note: See 42 U.S.C.A. § 3617.

- (4) To make a final administrative disposition of a complaint, after providing the complainant and the respondent with a copy of the final investigative report and thereafter affording the complainant and the respondent of the right to be heard and present evidence in connection with the complaint and/or said final investigative report, within one year of the date of receipt of a complaint, unless it is impracticable to do so in which event he/she shall notify the complainant and the respondent, in writing, of the reasons therefor.
- J. In making a final administrative disposition, or in approving any conciliation agreement, the Fair Housing Officer shall have the power and authority to grant to the prevailing party actual damages, injunctive or other equitable relief, and/or assess a civil penalty not in excess of \$1,000.
- K. Any approved conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Fair Housing Officer determines that disclosure is not required in order to further the purpose of this chapter.
- L. A final administrative disposition shall be subject to judicial review by a proceeding commenced pursuant to Article 78 of the New York Civil Practice Law and Rules and venued in Oneida County Supreme Court, provided that such proceeding is commenced within 30 days of the receipt of such final administrative disposition by the person commencing such proceeding.

§ 101-9. Amendment and interpretation.

- A. Amendment. The Town Council may, on its own initiative or petition, amend, supplement, or repeal the provisions of this chapter in conformity with applicable law after public notice and hearing.
- B. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety or the general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the highest standards, shall govern.