

Chapter 3

Fair Housing

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Sec. 15-3-1 Declaration of Policy.

It is hereby declared to be the policy of the City of Onalaska, pursuant to the United States and Wisconsin Constitutions, and also its power to protect the public health, safety and general welfare, that all persons, regardless of sex, sexual preference, race, color, physical condition, developmental disability as defined in Sec. 51.05(5), Wis Stats., religion, national origin or ancestry, are entitled to fair and equal access to housing; and to that end, the City of Onalaska hereby enacts the following Chapter, which prohibits any person, not herein exempted, from discriminating against any other person by impairing to any degree, access to any housing or housing accommodations on the basis of sex, race, color, physical condition, developmental disability, and creates a Commission on Equal Opportunities in Housing with the power and duty to enforce equal opportunity in housing for all citizens of Onalaska.

Sec. 15-3-2 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Accommodation.** Any room, apartment, house, building or structure, any part of which is used for human habitation on a temporary or permanent basis.
- (b) **Commission.** The Onalaska Commission on Equal Opportunities in Housing and "Commissioner" shall mean a member thereof.
- (c) **Complainant.** Any person who files a complaint with the Commission pursuant to Section 15-3-8.

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- (d) **Discriminate and Discrimination.** To segregate, separate, exclude or treat any person unequally only because of sex, sexual preference, race, color, physical condition, developmental disability as defined in Sec. 51.05(5), Wis. Stats., religion, national origin or ancestry. It is intended that the factors set forth herein shall be the sole bases for prohibiting discrimination.
- (e) **Hearing.** A hearing under the jurisdiction of the Commission, except where otherwise indicated.
- (f) **Housing.** Any improved property, including any mobile home as defined in Sec. 66.0435, Wis. Stats., which is used or occupied, or is intended, arranged or designed to be used or occupied as a home or residence.
- (g) **Owner-Occupied Dwelling.** A building used for human habitation in which the owner thereof maintains his permanent living quarters.
- (h) **Person.** Any individual, partnership, labor or other association, corporation, legal representative, receiver, trustee, trustee in bankruptcy or other fiduciary, or the lessee, proprietor, manager, employee or any other agent of any such person.
- (i) **Probable Cause.** Reasonable grounds to believe that a violation of Section 15-3-5, not exempted by Section 15-3-6, may have occurred or may be occurring.
- (j) **Respondent.** Any person who, according to the allegations contained in any complaint filed with the Commission, has violated any discriminatory practice prohibited by this Chapter and has been named in the complaint as a respondent.
- (k) **Single-Occupancy Room.** Any room which the owner has leased or rented, or in any way offered to lease or rent, to a sole individual, provided, however, that the owner permanently occupies living quarters in the same dwelling.

Sec. 15-3-3 Commission on Equal Opportunities in Housing.

- (a) **Commission Formation.** The purposes and provisions of this Chapter shall be implemented by the Onalaska Commission on Equal Opportunities in Housing, whose five (5) members shall be appointed by the Mayor, subject to confirmation by the Common Council, to serve five (5) year terms and, where necessary, by the Onalaska City Attorney. Initial terms of Commission members shall be as follows: One (1) shall be initially appointed for one (1) year; one (1) shall be initially appointed for two (2) years; one (1) shall be initially appointed for three (3) years; one shall be initially appointed for four (4) years; and one (1) shall be initially appointed for five (5) years. Thereafter, all Commissioners shall be appointed to serve (5) year terms. Any appointments to fill vacancies on the Board shall be for the duration of the unexpired term only. A member of the Commission may be removed by the Mayor, only for inefficiency, neglect of duty, misconduct or malfeasance in office, provided, however, the Commissioner is first given a written statement of the charges and an opportunity to be heard thereon. Commission members shall be reimbursed for all actual necessary expenses approved by the Common Council, but shall receive no other compensation.

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- (a) **Commission Powers and Duties.** The Onalaska Commission on Equal Opportunities in Housing shall have the following powers and duties:
- (1) To adopt, amend, publish and rescind rules for governing its meetings and hearings;
 - (2) To adopt, amend, publish and rescind regulations consistent with and for the enforcement of this Chapter;
 - (3) To appoint such other employees, agents and staff as are necessary to promote the purposes of this Chapter and to prescribe their duties;
 - (4) To receive, initiate and investigate all complaints alleging any discriminatory practice prohibited by this Chapter;
 - (5) To appoint mediators who initially shall seek a settlement agreeable to both the complainant and the respondent by means of informal conferences;
 - (6) If necessary, to hold hearings after efforts at settlement, based on complaints made against any person and a determination of probable cause, to administer oaths and take testimony; to compel the production of books, papers and any other documents relating to any matters involved in the complaint; and to subpoena witnesses and compel their attendance. If a witness either fails or refuses to obey a subpoena issued by the Commission, the Commission may order attendance. At any time after it has issued such an order, the Commission may petition a court of competent jurisdiction for its enforcement;
 - (7) To issue, after hearing, such final orders as are necessary to promote the purposes of this Chapter;
 - (8) To issue temporary orders effective for a maximum of twenty (20) days, absent extraordinary circumstances, restraining the respondent from taking any action which would tend to render ineffectual or unenforceable any order which the Commission might issue;
 - (9) To refer orders, pursuant to Section 15-3-6 to the City Attorney to be enforced by him in the name of the City of Onalaska;
 - (10) To make available to the public, in writing, copies of:
 - a. Transcripts of all of its proceedings, except initial settlement efforts by its mediators;
 - b. All temporary and final orders; and
 - c. All decisions and opinions rendered;
 - (11) To require a written report of the manner of compliance with any final order it may issue; and
 - (12) To recommend to the Mayor and the Common Council any legislation necessary to further promote the purposes of this Chapter and to file annual written reports of its work to the Mayor and the Common Council.

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Sec. 15-3-4 Discrimination Prohibited.

It is unlawful for any person to discriminate:

- (a) By refusing to sell, lease, finance or contract to construct housing or by refusing to discuss the terms thereof.
- (b) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease or rental of housing.
- (c) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.
- (d) By publishing, circulating, issuing or displaying or causing to be published, circulated, issued or displayed any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of housing, which states or indicates any discrimination in connection with housing.

Sec. 15-3-5 Representation Designed to Induce Panic Sales.

It is unlawful to induce or attempt to induce any person to sell, rent or lease any dwelling by representations regarding the present or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin or economic status, or by representations to the effect that such present or prospective entry will or may result in:

- (a) The lowering of real estate values in the area concerned;
- (b) A deterioration in the character of the area concerned;
- (c) An increase in criminal or antisocial behavior in the area concerned; or
- (d) A decline in the quality of the schools or other public facilities serving the area.

Sec. 15-3-6 Requiring References.

Nothing in this Chapter shall be deemed to prohibit an owner or agent from requiring that a person who seeks to buy, rent or lease housing supply information concerning family marital, financial and business status but not concerning race, color, physical condition, developmental disability as defined in Sec. 51.01(5), Wis. Stats., or creed.

Sec. 15-3-7 Enforcement Procedure.

- (a) **Complaint.** Any complaint alleging any discriminatory practice prohibited by this Chapter shall be in writing. Such complaints may be initiated by:
 - (1) The complainant, who may mail his complaint to the Commission or dictate it to an agent of the Commission;

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- (2) Any agent of the complainant, including any agent who himself has solicited offers to buy, lease, rent or, in any other manner, seek access to any interest in any part of any housing or housing accommodation, for the complainant; or
 - (3) Any member of the Commission on his own initiative.
- (b) **Required Information.**
- (1) The name and address of the complainant;
 - (2) The name and address of the respondent or respondents;
 - (3) A statement setting forth the particulars of the alleged discrimination or discriminatory practice; and
 - (4) The date or dates of the alleged discrimination or discriminatory practice
- (b) Opportunities in Housing by the Complainant, his duly authorized agent or member or duly authorized agent of the Commission and may be filed in person or by mail.
- (c) **When Filed.** Complaints alleging any discriminatory practice prohibited by this Chapter shall be filed no later than ninety (90) days after the complainant knew or should reasonably have known that the alleged act or acts occurred.
- (d) **Notice to Respondent.** Upon the filing of a complaint, the Commission shall serve a copy thereof upon the respondent within ten (10) days of said filing.
- (e) **Amendment and Withdrawal.** A complaint may be amended or withdrawn at any time with and subject to the approval of the Commission or its designated agent and under such terms as the Commissioner or agent shall direct.
- (f) **Investigations; Hearings; Determinations; Appeals**
- (1) An agent designated by the Commission shall promptly investigate all duly filed complaints. Within thirty (30) days of the filing of each complaint, said agent shall issue to the complainant and respondent an initial determination in writing of whether probable cause, as defined in this Chapter, exists, and setting forth the basis of the determination.
 - (2) Should a determination be made that there is no probable cause to believe discrimination in violation of this Chapter has been, or is being, committed, the complainant shall be afforded an opportunity to appeal such decision to the full Commission. Should the full Commission decide that there is no probable cause, the complainant may appeal to the Circuit Court of the County in which the property or property interest is located.
 - (3) Should a determination be made that there is probable cause to believe discrimination in violation of this Chapter has been or is being committed, an agent designated by the Commission shall endeavor by means of conference, conciliation or persuasion to eliminate the alleged discriminatory practice.
 - (4) In any case where efforts at settlement have failed to eliminate the discriminatory practice alleged by the Complaint, the Commission shall promptly cause to be issued a notice of hearing before a hearing examiner, acting as an agent of the Commission, to determine the merits of the complaint.

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- (5) a. If, after a hearing and on the basis of the official record made therein, the examiner finds that the respondent has engaged in or is engaging in any discrimination prohibited by this Chapter, he shall make and recommend to the Commission written findings of fact and conclusions thereon and shall recommend such action to be taken by the respondent and, where necessary, by the complainant, as will affect the purposes of this Chapter by eliminating the discrimination found.
- b. A certified copy of such recommended findings, conclusions and orders, together with a summary of the findings of fact, shall be mailed to the last-known addresses of the complainant and respondent.
- c. If, within thirty (30) days following the mailing of the examiner's decision, the Commission does not receive notice of appeal, the findings, conclusions and orders of the examiner shall be the findings.
- d. If, within thirty (30) days following the mailing of the examiner's decision, the complainant or respondent serves notice of appeal, such appeal may be had to the full Commission. The Commission shall have the power to affirm, reverse or modify the determination of the hearing examiner. After final determination by the Commission, either party may appeal by certiorari to a court of competent jurisdiction.
- (h) **Transfer of Proceedings.** At any time after a finding of probable cause, the Commission, with appropriate notice to the complainant and respondent, may transfer the proceedings to itself.
- (i) **Disqualification of Commissioners.** No Commissioner who, pursuant to Subsection (a), has filed a complaint on his own initiative shall participate in any subsequent hearing or proceeding except as a witness, nor shall he participate in the deliberations of the Commission in such case.
- (j) **Judicial Enforcement.** Whenever, in the judgment of the Commission, judicial enforcement of a Commission order is necessary, the Commission shall, in writing, request the City Attorney to commence proceedings in a court of competent jurisdiction to enforce such orders in the name of the City of Onalaska. Upon receipt of any request, the City Attorney shall have the duty to seek enforcement of such orders in a court of competent jurisdiction.

Sec. 15-3-8 Remedies and Penalties.

- (a) **Remedies.** The Commission shall have the power and duty, after investigation and hearing, to issue and implement such orders as may be necessary to effect the purposes of this Chapter. Such orders may include:
 - (1) Cease and desist orders;
 - (2) Compensatory damages to the complainant;

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- (4) Affirmative action by the respondent and, where necessary, by the complainant;
- (5) Any other orders which may be necessary to effect the purposes of this act.
- (b) **Penalties.** Any person who willfully violates this Chapter or any lawful order issued hereunder shall, for each such violation, on order of the Commission, forfeit an amount as established in Section 1-1-7 of this Code of Ordinances. Each day such violation continues shall constitute a separate offense. Payment of any such forfeiture shall be stayed during the period in which any appeal may be taken and during the pendency of any appeal.
- (c) **False Complaints.** It shall be unlawful for any person to file or cause to be filed any complaint that is not valid or is blatantly untrue, for the purpose of defamation, and with intent to expose any respondent to hatred, contempt, ridicule, degradation or disgrace in society.

Sec. 15-3-9 Liberal Construction; Severability.

- (a) The provisions of this Chapter shall be liberally construed in order to promote the purposes and provisions contained herein.
- (b) The provisions of this Chapter are severable and if any provision, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of the Chapter or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Chapter would have been adopted if such illegal, invalid, unconstitutional or inapplicable provision, sentence, clause, section or part thereof had not been included therein, and if the person or circumstances to which the Chapter or any part thereof is inapplicable had been specifically exempted therefrom.