

Chapter 33

Fair Housing Ordinance

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33.01 Authority. This Ordinance is adopted pursuant to the authority of Wis. Stat. §66.1011(2).

33.02 Purpose. It is the policy of Kewaunee County that all persons shall have an equal opportunity for housing regardless of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual assault, or stalking, lawful source of income, age, or ancestry.

33.03 Definitions.

- (1) “Advertise” means to publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign in connection with the sale, financing or rental of housing.
- (2) “Age”, in reference to a member of a protected class, means at least 18 years of age.
- (3) “Aggrieved person” means a person who claims to have been injured by discrimination in housing or believes that he or she will be injured by discrimination in housing that is about to occur.
- (4) “Complainant” means a person who files a complaint alleging discrimination in housing.
- (5) “Conciliation” means the attempted resolution of issues raised by a complaint or by the investigation of the complaint, through informal negotiations involving the aggrieved person, the complainant, the respondent and corporation counsel.
- (6) “Condominium” has the meaning given in Wis. Stat. §703.02 (4).

- (7) “Condominium association” means an association, as defined in Wis. Stat. §703.02 (1m).
- (8) “Disability” means a physical or mental impairment that substantially limits one or more major life activities, a record of having such an impairment or being regarded as having such an impairment. "Disability" does not include the current illegal use of a controlled substance, as defined in Wis. Stat. §961.01 (4), or a controlled substance analog, as defined in Wis. Stat. §961.01 (4m), unless the individual is participating in a supervised drug rehabilitation program.
- (9) “Discriminate” means to segregate, separate, exclude, or treat a person or class of persons unequally in a manner described in this ordinance because of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual assault, or stalking, lawful source of income, age, or ancestry.
- (10) “Dwelling Unit” means a structure or that part of a structure that is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons who are maintaining a common household, to the exclusion of all others.
- (11) “Family” includes one natural person.
- (12) “Family Status” means any of the following conditions that apply to a person seeking to rent or purchase housing or to a member or prospective member of the person's household regardless of the person's marital status:
 - (a) A person is pregnant.
 - (b) A person is in the process of securing sole or joint legal custody, periods of physical placement or visitation rights of a minor child.
 - (c) A person's household includes one or more minor or adult relatives.
 - (d) A person's household includes one or more adults or minor children in his or her legal custody or physical placement or with whom he or she has visitation rights.
 - (e) A person's household includes one or more adults or minor children placed in his or her care under a court order, under a guardianship or with the written permission of a parent or other person having legal custody of the adult or minor child.
- (13) “Hardship condition” means a situation under which a tenant in housing for older persons has legal custody or physical placement of a minor child or a minor child is placed in the tenant's care under a court order, under a guardianship or with the written permission of a parent or other person having legal custody of the minor child.
- (14) “Housing” means any improved property, or any portion thereof, including a mobile home as defined in Wis. Stat. §101.91 (10), manufactured home, as defined in Wis. Stat. §101.91 (2), or condominium, that is used or occupied, or is intended, arranged or designed to be used or occupied, as a home or residence. "Housing" includes any vacant land that is offered for sale or rent for the construction or location thereon of any building, structure or portion thereof that is used

or occupied, or is intended, arranged or designed to be used or occupied, as a home or residence.

- (15) "Housing for older persons" means any of the following:
 - (a) Housing provided under any state or federal program that the secretary determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program.
 - (b) Housing solely intended for, and solely occupied by, persons 62 years of age or older.
 - (c) Housing primarily intended and primarily operated for occupancy by at least one person 55 years of age or older per dwelling unit.
- (16) "Interested person" means an adult relative or friend of a member of a protected class, or an official or representative of a private agency, corporation or association concerned with the welfare of a member of a protected class.
- (17) "Member of a protected class" means a group of natural persons, or a natural person, who may be categorized because of sex, race, color, disability, sexual orientation, religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual abuse, or stalking, lawful source of income, age, or ancestry.
- (18) "Relative" means a parent, grandparent, great-grandparent, stepparent, step grandparent, brother, sister, child, stepchild, grandchild, step grandchild, great-grandchild, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepbrother, stepsister, half brother or half sister or any other person related by blood, marriage or adoption.
- (19) "Rent" means to lease, to sublease, to let or to otherwise grant for a consideration the right of a tenant to occupy housing not owned by the tenant.
- (20) "Respondent" means the person accused in a complaint or amended complaint of discrimination in housing and any other person identified in the course of an investigation as allegedly having discriminated in housing.
- (21) "Sexual orientation" has the meaning given in Wis. Stat. §111.32 (13m).
- (22) "Status as a victim of domestic abuse, sexual assault, or stalking" means the status of a person who is seeking to rent or purchase housing or of a member or prospective member of the person's household having been, or being believed by the lessor or seller of housing to be, a victim of domestic abuse, as defined in Wis. Stat. §813.12 (1) (am), sexual assault under Wis. Stat. §§ 940.225, 948.02, or 948.025, or stalking under Wis. Stat. §940.32.

33.04 Discrimination Prohibited. It is unlawful for any person to discriminate:

- (1) By refusing to sell, rent, finance or contract to construct housing or by refusing to negotiate or discuss the terms thereof.
- (2) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease, financing or rental of housing.

- (3) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.
- (4) By advertising in a manner that indicates discrimination by a preference or limitation.
- (5) For a person in the business of insuring against hazards, by refusing to enter into, or by exacting different terms, conditions or privileges with respect to, a contract of insurance against hazards to a dwelling.
- (6) By refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant.
- (7) In providing, services or facilities that are available in connection with housing.
- (8) By falsely representing that housing is unavailable for inspection, rental or sale.
- (9) By denying access to, or membership or participation in, a multiple listing service or other real estate service.
- (10) By coercing, intimidating, threatening or interfering with a person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, a right granted or protected under this ordinance, or with a person who has aided or encouraged another person in the exercise or enjoyment of a right granted or protected under this ordinance.
- (11) In making available any of the following transactions, or in the terms or conditions of such transactions for a person whose business includes engaging in residential real estate-related transactions:
 - (a) The making or purchasing of loans or the provision of other financial assistance for purchasing, constructing, improving, repairing or maintaining housing or the making or purchasing of loans or the provision of other financial assistance secured by residential real estate.
 - (b) Selling, brokering or appraising residential real property.
- (12) By otherwise making unavailable or denying housing.

33.05 Representations designed to induce panic sales. No person may induce or attempt to induce a person to sell or rent housing by representations regarding the present or prospective entry into the neighborhood of a person of a particular economic status or a member of a protected class, or by representations to the effect that such present or prospective entry will or may result in any of the following:

- (1) The lowering of real estate values in the area concerned.
- (2) A deterioration in the character of the area concerned.
- (3) An increase in criminal or antisocial behavior in the area concerned.
- (4) A decline in the quality of the schools or other public facilities serving the area.

33.06 Discrimination against persons with disabilities prohibited.

- (1) Types of discrimination prohibited. In addition to discrimination prohibited under subs. (4) and (5), no person may do any of the following:

- (a) Segregate, separate, exclude or treat unequally in the sale or rental of, or otherwise make unavailable or deny, housing to a buyer or renter because of a disability of that buyer or renter, a disability of a person residing in or intending to reside in that housing after it is sold, rented or made available or a disability of a person associated with that buyer or renter.
 - (b) Segregate, separate, exclude or treat unequally a person in the terms, conditions or privileges of sale or rental of housing, or in the provision of services or facilities in connection with such housing, because of a disability of that person, a disability of a person residing in or intending to reside in that housing after it is sold, rented or made available or a disability of a person associated with that person.
 - (c) Refuse to permit, at the expense of a person with a disability, reasonable modifications of existing housing that is occupied, or is to be occupied, by such a person if the modifications may be necessary to afford the person full enjoyment of the housing, except that in the case of rental housing the landlord may, where it is reasonable to do so, condition permission for a modification on the tenant's agreement to restore the interior of the housing to the condition that existed before the modification, other than reasonable wear and tear. The landlord may not increase any customarily required security deposit. Where it is necessary to ensure that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of a restoration agreement a requirement that the tenant pay into an interest-bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant. If escrowed funds are not used by the landlord for restorations, they shall be returned to the tenant.
 - (d) Refuse to make reasonable accommodations in rules, policies, practices or services that are associated with the housing, when such accommodations may be necessary to afford the person equal opportunity to use and enjoy housing, unless the accommodation would impose an undue hardship on the owner of the housing.
- (2) Animals assisting persons with disabilities.
- (a) If an individual's vision, hearing or mobility is impaired, it is discrimination for a person to refuse to rent or sell housing to the individual, cause the eviction of the individual from housing, require extra compensation from an individual as a condition of continued residence in housing or engage in the harassment of the individual because he or she keeps an animal that is specially trained to lead or assist the individual with impaired vision, hearing or mobility if all of the following apply:

1. Upon request, the individual shows to the lessor, seller or representative of the condominium association credentials issued by a school recognized by the State of Wisconsin as accredited to train animals for individuals with impaired vision, hearing or mobility.
 2. The individual accepts liability for sanitation with respect to, and damage to the premises caused by, the animal.
- (b) Paragraph (a) does not apply in the case of the rental of owner-occupied housing if the owner or a member of his or her immediate family occupying the housing possesses and, upon request, presents to the individual a certificate signed by a physician which states that the owner or family member is allergic to the type of animal the individual possesses.

33.07 Exemptions and exclusions.

- (1)
- (a) Nothing in this section prohibits discrimination based on age or family status with respect to housing for older persons.
 - (b) Under this paragraph, housing under sub. (3)(o)3. may qualify as housing for older persons only if the owner of the housing maintains records containing written verification that all of the following factors apply to the housing:
 1. At least 80% of the dwelling units under sub. (3)(o)3. are occupied by at least one person 55 years of age or older.
 2. Policies are published and procedures are adhered to that demonstrate an intent by the owner or manager to provide housing under sub. (3)(o)3. for persons 55 years of age or older. The owner or manager may document compliance with this subdivision by maintaining records containing written verification of the ages of the occupants of the housing.
 - (c) No person may discriminate by refusing to continue renting to a person living in housing for older persons under sub. (3)(o)3. who is subject to a hardship condition.
 - (d) Under this paragraph, housing may qualify as housing for older persons with respect to persons first occupying the housing on or after September 1, 1992, regardless of whether a person who had not attained the age of 62 resided in the housing on that date or regardless of whether one or more dwelling units were unoccupied on that date, if the persons who first occupy the housing on or after that date have attained the age of 62.
- (2) Nothing in this section shall prohibit a person from exacting different or more stringent terms or conditions for financing housing based on the age of the individual applicant for financing if the terms or conditions are reasonably related to the individual applicant.

- (3) Nothing in this section shall prohibit the development of housing designed specifically for persons with disabilities and preference in favor of persons with disabilities in relation to such housing.
- (4) Nothing in this section requires that housing be made available to an individual whose tenancy would constitute a direct threat to the safety of other tenants or persons employed on the property or whose tenancy would result in substantial physical damage to the property of others, if the risk of direct threat or damage cannot be eliminated or sufficiently reduced through reasonable accommodations. A claim that an individual's tenancy poses a direct threat or a substantial risk of harm or damage must be evidenced by behavior by the individual that caused harm or damage, that directly threatened harm or damage, or that caused a reasonable fear of harm or damage to other tenants, persons employed on the property, or the property. No claim that an individual's tenancy would constitute a direct threat to the safety of other persons or would result in substantial damage to property may be based on the tenant's status as a victim of domestic abuse, sexual assault, or stalking.
- (5) It is not discrimination based on status as a victim of domestic abuse, sexual assault, or stalking for a landlord to bring an action for eviction of a tenant based on a violation of the rental agreement or of a statute that entitles the landlord to possession of the premises, unless subd. 1. or 2. applies. A tenant has a defense to an action for eviction brought by a landlord if the tenant proves by a preponderance of the evidence that the landlord knew or should have known any of the following:
 - (a) That the tenant is a victim of domestic abuse, sexual assault, or stalking and that the basis for the action for eviction is conduct that related to the commission of domestic abuse, sexual assault, or stalking by a person who was not the invited guest of the tenant.
 - (b) That the tenant is a victim of domestic abuse, sexual assault, or stalking, that the basis for the action for eviction is conduct that related to the commission of domestic abuse, sexual assault, or stalking by a person who was the invited guest of the tenant, and that the tenant has done one of the following:
 1. Sought an injunction under Wis. Stat. §§813.12, 813.122, 813.123, or 813.125 enjoining the person from appearing on the premises.
 2. Upon receiving notice under Wis. Stat. §704.17, provided a written statement to the landlord indicating that the person will no longer be an invited guest of the tenant and has not subsequently invited the person to be a guest of the tenant.
- (6) It is not discrimination based on family status to comply with any reasonable federal, state or local government restrictions relating to the maximum number of occupants permitted to occupy a dwelling unit.
 - (a) Subject to subd. 2., nothing in this section applies to a decision by an individual as to the person with whom he or she will, or continues to, share a dwelling unit, as defined in Wis. Stat.

§101.71(2) except that dwelling unit does not include any residence occupied by more than 5 persons.

- (b) Any advertisement or written notice published, posted or mailed in connection with the rental or lease of a dwelling unit under subd. 1. may not violate sub. (4)(d), 42 USC 3604 (c), or any rules or regulations promulgated under this section or 42 USC 3601 to 3619, except that such an advertisement or written notice may be for a person of the same sex as the individual who seeks a person to share the dwelling unit for which the advertisement or written notice is placed.
- (7)
 - (a) Nothing in this section prohibits an owner or agent from requiring that a person who seeks to buy or rent housing supply information concerning family status, and marital, financial, and business status but not concerning race, color, disability, sexual orientation, ancestry, national origin, religion, creed, status as a victim of domestic abuse, sexual assault, or stalking, or, subject to subd. 2., age.
 - (b) Notwithstanding subd. 1., an owner or agent may require that a person who seeks to buy or rent housing under sub. (2)(o)3. supply information concerning his or her age for the purpose of verifying compliance with par. (a)2.a.
- (8) A person may not be held personally liable for monetary damages for a violation of sub. (4), (5) or (6) if the person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons. For purposes of this paragraph, a person may show reasonable reliance, in good faith, on the application of the exemption under this subsection relating to housing for older persons only if the person shows all of the following:
 - (a) That he or she has no actual knowledge that the housing is not or will not be eligible for the exemption.
 - (b) That the owner of the housing has stated formally, in writing, that the housing complies with the requirements for the exemption.

33.08 Fair Housing Enforcement.

- (1) Complaints.
 - (a) The Corporation Counsel may receive and investigate a complaint charging a violation of sub. (4), (5) or (6) if the complaint is filed with Corporation Counsel not later than one year after the alleged discrimination occurred or terminated.
 - (b) The complaint shall include a written statement of the essential facts constituting the discrimination that is charged, and shall be signed by the complainant.
 - (c) The complaint may be filed by an aggrieved person or by an interested person.

- (d) Upon the filing of an initial, amended, final or supplemental complaint, corporation counsel shall promptly serve a copy of the complaint upon the respondent. The notice to the respondent shall include a written statement from corporation counsel directing the respondent to respond in writing to the allegations in the complaint within 20 days after the date of the notice and further stating that, if the respondent fails to answer the complaint in writing, corporation counsel will make an initial determination as to whether discrimination has occurred based only on the corporation counsel's investigation and the information supplied by the complainant.
 - (e) Corporation counsel may dismiss a complaint if the complainant fails to respond to corporation counsel within 20 days from the date of mailing of any correspondence to the last known address of complainant.
- (2) Enforcement.
- (a) If there is probable cause to believe that any discrimination has been or is occurring in violation of this ordinance, the Corporation Counsel may endeavor to eliminate such discrimination by conference, conciliation and persuasion.
 - (b) Upon a determination that the alleged discrimination continues and there is a likelihood that further efforts at conference, conciliation and persuasion will not eliminate the alleged discrimination, the corporation counsel may commence a forfeiture action in the name of Kewaunee County and proceed in the Circuit Court for Kewaunee County for the enforcement of this ordinance.
- (3) Penalties.
- (a) Any person violating this ordinance shall be subject to a forfeiture in an amount not exceeding \$10,000.
 - (b) Any person violating this ordinance for a second time a 5-year period shall be subject to a forfeiture not exceeding \$25,000.
 - (c) Any person violating this ordinance for a third or subsequent time in a 7-year period shall be subject to a forfeiture in an amount not exceeding \$50,000.

33.09 Civil Actions. Nothing in this ordinance shall limit an individual's right to initiate or maintain a private right of action to enforce his or her statutory or constitutional rights and privileges.

33.10 Severability. If a court of competent jurisdiction finds any section, provision or portion of this ordinance invalid, the remainder of this ordinance shall remain in full force and effect.

33.11 Effective date. This Ordinance shall be effective upon passage and publication.