



## **ARTICLE I. HOUSING IN GENERAL**

### **DIVISION 2. ANTIDISCRIMINATION IN HOUSING**

#### **SECTION 16-3 POLICY**

It is the intent of this article to make discrimination in housing unlawful. It is the policy of the City to provide, within constitutional limitations, for fair housing throughout the City regardless of age, color, family status, gender identity and/or gender expression, marital status, national origin/ancestry, race, religion, persons with disabilities, sex, sexual orientation, source of lawful income, or victims of domestic violence, sexual assault or stalking. Enforcement of this article shall be considered an exercise of the police powers of the City for the protection of the health, welfare, peace, dignity, and human rights of persons of this City. The City herein adopts Wis. Stat. 106.50(1) as amended.

#### **SECTION 16-3.1 DISCRIMINATION PROHIBITED**

Subject to the other provisions of this Division, no person may discriminate in the rental of housing, procurement of property owner's insurance, or commit any sale or discriminatory housing practice against any person on the basis of membership in any Protected Class. The terms and standards of the Wisconsin Open Housing Law shall apply to this Division, except where the City adopts more inclusive terms as outlined in this Division.

#### **SECTION 16-4 DEFINITIONS**

- (A) The City adopts the Definitions described in Wis. Stat. 106.50 (ad) - (mm) and (om) - (u), as amended, as if fully restated herein.
- (B) "Commission" shall mean the Oshkosh Fair Housing Commission and "Commissioner" shall mean a member thereof.
- (C) A Member of a Protected Class means a group of natural persons, or a natural person, who may be categorized because of one or more of the following:
  - (1) Age. Persons 18 years of age or older.

- (2) Color. A person's skin color.
- (3) Disability I Handicap. A physical or mental impairment that substantially limits one or more major life activities.
- (4) Domestic Abuse, Sexual Assault and Stalking Victims. Persons who have been victims of domestic abuse, sexual assault, or stalking.
- (5) Family Status. Household composition, including presence of children.
- (6) Gender Identity and/or Gender Expression. A person's gender-related self-identity, appearance, expression or behavior, regardless of the persons assigned sex at birth.
- (7) Lawful Source of Income. A person's legal means of income, including such subsidized forms as Social Security, food stamps, unemployment compensation, etc.
- (8) Marital Status. Married, unmarried, single, widowed or separated.
- (9) National Origin I Ancestry. The country of one's birth and/or nationality of one's ancestors. (10) Race. A person's race or the race of persons with whom one associates.
- (11) Religion. A person's religious beliefs, or denominational affiliation. (12) Sex. A person's sex, including sexual harassment or intimidation.
- (13) Sexual Orientation. Individuals identified as heterosexual, gay, lesbian, bisexual or any sexual orientation identity.
- (14) Ancestry.

## **SECTION 16-5 ACTS PROHIBITED BY THIS DIVISION**

The City adopts Wis. Stat. 106.50 (2) and (2r), as amended, as if fully restated here.

### **SECTION 16-5.1 REPRESENTATIONS DESIGNED TO INDUCE PANIC SALES**

The City adopts Wis. Stat. 106.50 (2m), as amended, as if fully restated herein.

### **SECTION 16-6 EXEMPTIONS AND EXCLUSIONS**

The City adopts Wis. Stat. 106.50 (5m), as amended, as if fully restated herein.

## SECTION 16-6.1 ENFORCEMENT

It is the intent of the City to enforce or assist with the enforcement of the requirements of this Division as described in the Wisconsin Open Housing Equal Rights provisions, and to otherwise take all authorized and appropriate actions to affirmatively further fair housing within the City of Oshkosh. The City shall assist with initial investigations and attempted resolutions for matters within the scope of the State of Wisconsin's Open Housing Equal Rights provisions, although the final and formal investigation, resolution, and enforcement of unresolved contested complaints shall be by the State of Wisconsin through a referral to the appropriate State agency or department. Complaints with a subject matter consistent with the Ordinance, but outside the scope of the State's jurisdiction, shall be addressed by the City or its designee through this

Division.

- (A) The City may delegate to third parties some or all of the responsibilities necessary to take meaningful actions to affirmatively further fair housing in the City, and that such actions may include education, training, data compilations, and reporting.
- (B) The City may delegate to a third party administrator the responsibilities for investigating complaints from members of a Protected Class as well as to undertake all reasonable actions necessary to resolve disputes related to this Division, including negotiation, conciliation, settlement, or other mutually agreeable resolution. In the event that a settlement or other resolution is not obtained, then the third-party administrator shall:
  - a. Assist the Complainant to the extent necessary to ensure the Complainant has the opportunity to initiate a proceeding through the State of Wisconsin Equal Rights Program for Open Housing as described in Wis. Stat.106.50, as amended. The third-party shall thereafter notify the City that it has concluded its activities with the issues surrounding this complainant.
  - b. Refer the matter back to the City for further actions in the event that the Complainant has raised issues that are outside the scope of the State of Wisconsin Equal Rights Program for Open Housing but are within the scope this Division. The City shall then take all appropriate actions based upon the third party administrator's referral.

## SECTION 16-7 POWERS AND DUTIES OF COMMISSION

The Oshkosh Fair Housing Commission shall have the following powers and duties:

A) Adopt Rules

To adopt, amend, publish and rescind rules for governing its meetings and hearings;

(B) Receive and Investigate Complaints

To receive complaints and review staff investigation of all complaints alleging any discriminatory practice prohibited by this Division.

(C) Hearings

To hold hearings, if necessary, after efforts at settlement based on complaints made against any person, to administer oaths and take testimony, to compel the production of books, papers and other documents relating to any matter involved in the complaint, and to subpoena witnesses and compel their attendance.

(D) Refer Disputes to Appropriate Entity for Resolution

Refer complaints to the City Attorney or to other appropriate entities to the purpose of reaching a resolution of the issues raised in the complaint.

### SECTION 16-7.1 ENFORCEMENT PROCEDURE

(A) Complaint

Any complaint alleging any discriminatory practices prohibited by this Division shall be reduced to writing and signed under oath by the complainant in the presence of a Notary. Such complaints may be initiated by any person having personal knowledge of the facts constituting the alleged discriminatory practice. All complaints shall contain the following:

- (1) The name and address of the complainant, and of the person allegedly discriminated against, if different.
- (2) The name and address of the respondent or respondents.
- (3) A statement setting forth the facts constituting the alleged discriminatory practice, and
- (4) The date or dates of the alleged discriminatory practice.

(B) Where Filed

Complaints shall be filed with the City Clerk who shall transmit the same to the Director of the Department of Community Development as the Secretary of the Oshkosh Fair Housing Commission.

(C) When Filed

Complaints alleging any discriminatory practice prohibited by this Division shall be filed no later than 1 year from the occurrence or termination of an alleged discriminatory practice.

(D) Initial Investigation

The Secretary, or their designee(s), shall perform an initial investigation of the complaint and is authorized to resolve the matter through conference, conciliation and persuasion. In the event the matter cannot be resolved by the Secretary, then the Secretary shall submit findings to the Commission. The Secretary's findings may include the conclusion that no probable cause exists that shows discriminatory practices exist, which will end the matter, The Secretary's findings may include the conclusion that probable cause does exist that shows discriminatory practices exist, in which case the Secretary will forward the same to the Commission for formal review.

(E) Notice to Respondent

The Commission shall provide a copy of the complaint to the respondent within ten (10) days of said finding of probable cause. The respondent shall have ten (10) days after receipt of the complaint to file a response with the Commission.

(F) Amendment and Withdrawal

A complaint may be amended or withdrawn by the complainant at any time with and subject to the approval of the Commission or its designated agent and under such terms as the agent shall direct.

(G) Hearings

- (1) The Commission shall conduct a hearing to determine facts upon which to base a recommendation for prosecution to the City Attorney. Said hearing shall be conducted within eight-five (85) days after a finding of Probable Cause is forwarded to the Commission. The complainant and respondent may but need not be represented at said hearing by an attorney.
- (2) At the conclusion of the hearing, the Commission shall by majority vote of those members present and voting, make a determination which may

reverse the Secretary's initial finding of Probable Cause, or may affirm the Secretary's initial finding of Probable Cause that discrimination did occur. If the Commission does not find probable cause, then the case will be closed and the claimant and respondent promptly notified. If the Commission affirms the Secretary's initial finding of Probable Cause, then the Commission will refer this finding, along with all documents associated with this matter, to the City Attorney's office for further proceedings.

- (3) In the event that this matter is referred to the City Attorney's office, the City Attorney's office may at its discretion take further appropriate action to remedy any discrimination that is the subject of a Probable Cause finding. The City Attorney may take any lawful action that is warranted, including without limitation initiating a forfeiture or civil action, and may request monetary damages, injunctive relief, and/or any other remedy that may be available.
- (4) The City Attorney may intervene in this matter at any time after the Secretary issues an initial determination, and may take any lawful action that is warranted, including without limitation initiating a forfeiture or civil action, and may request monetary damages, injunctive relief, and/or any other remedy that may be available. In the event that the City Attorney intervenes in a matter during the period when the matter is before the Commission, then the City Attorney shall notify the Commission of its actions taken. If the Commission receives the aforementioned notice from the City Attorney, then the Commission may suspend further proceedings pending a resolution of the legal actions taken by the City Attorney.
- (5) The procedure for resolving issues as outlined in this Division shall not preclude the Complainant from pursuing other lawful methods of resolving a matter without the involvement of the Commission or the City that are available. In the event the Complainant elects to pursue other available methods of resolution, the Complainant shall notify the Secretary of this and the City and Commission files may be closed.
- (6) No Commissioner who has filed a complaint on the Commissioner's own initiative, or who has a material or personal interest in any issue raised in the complaint, or may be a witness in any hearing related to the matter, shall participate in any subsequent hearing or proceeding in any role as a Commissioner.

**SECTION 16-8 LIBERAL CONSTRUCTION; SEVERABILITY**

- (A) The provisions of this division shall be liberally construed in order to promote the purposes and provisions contained herein.
- (1) This Division is intended to be interpreted consistently with Title VIII of the Civil Rights act of 1968 (42 USC Sec. 3601-3619) as amended, and with regulations applicable thereto (24 CAR Parts 14, 100, 103, 110, 115 and 121) except where the language of this Division clearly expresses a different interpretation.
- (2) This Division is intended to be interpreted consistently with Wisconsin's fair and open housing provisions as may be amended, including Sections 66.1011, 101.32, and 106.50, except where the language of this Division expresses a different interpretation,
- (B) The provisions of this Division are severable and if any provision, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality invalidity, unconstitutionally or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, Sections or parts of the Division or their application to other person or circumstances. It is hereby declared to be the legislative intent that this Division 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 Division or any part thereof is inapplicable had been specifically exempted therefrom.

**SECTION 16-9 PENAL TY FOR VIOLATION OF THIS DIVISION**

- (A) Citations.
- a. Any person who violates this article or any lawful order issued under this article shall, for each violation, forfeit not more than ten thousand dollars (\$10,000) along with other relief deemed appropriate which may include economic and noneconomic damages suffered by the aggrieved person and injunctive or other equitable relief.
- b. Any person adjudged to have committed one (1) other discriminatory act under this Division within a five (5) year period, based on the offense date of the prior discriminatory act, may be assessed a forfeiture not exceeding

twenty-five thousand dollars (\$25,000). If a person is adjudged to have committed two (2) or more prior discriminatory acts under this article during the preceding seven (7) year period, based on the offense dates of the prior discriminatory acts, a forfeiture not exceeding fifty thousand dollars (\$50,000) may be assessed.

(B) Civil Actions.

- a. The City may commence a civil action on behalf of an aggrieved person for the purposes of seeking injunctive relief and, if the City is the prevailing party, court costs and reasonable attorney's fees.
- b. Any person alleging a violation of this Division may at any time bring a civil action requesting injunctive relief, damages including punitive damages, and if the plaintiff is the prevailing party, court costs and reasonable attorneys fees.

(C) Other Remedies. Nothing in this Division shall prohibit an aggrieved party from initiating any lawful proceeding, whether individually or as a class, regardless of any actions or enforcement being undertaken by the City.

(D) In addition to the above, a prevailing complainant, including the City, may be awarded reasonable attorney's fees and costs.