

Chapter 28

FAIR HOUSING

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§ 28-1. Adoption of Fair Housing Amendment.

The Town of Canton adopts the Fair Housing Amendments Act of 1988 Public Law 100-430, 102 Stat. 1619.

§ 28-2. Purposes and enactment.

For the purpose of providing and ensuring fair housing opportunities for all within the Town of Canton, New York, the Town Board of the Town of Canton, in the County of St. Lawrence, State of New York, under the authority of the General Municipal Law and Town Law, hereby obtains, enacts and publishes this chapter.

§ 28-3. Word usage and definitions.

- A. For the purpose of this chapter, certain words or phrased herein shall be interpreted as follows, except where the context clearly indicates the contrary:

1. Words used in the singular include the plural.
2. Words used in the present tense include the future tense.
3. The word Aperson@ includes a corporation as well as an individual.
4. The word Ashall@ is always mandatory.

B. For the purpose of this chapter, certain terms or words herein shall be interpreted as follows:

DISCRIMINATORY HOUSING PRACTICE - An act that is unlawful under The Fair Housing Act of 1988.

DWELLING - Any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

FAMILY - Includes a single individual.

PERSON - Includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

TO RENT - Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

HANDICAPPED - with respect to a person:

1. A physical or mental impairment which substantially limits one or more of such person's major life activities,
2. A record of having such an impairment, or
3. Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802)).

FAMILIAL STATUS - One or more individuals (who have not attained the age of 18 years) being domiciled with:

1. A parent or another person having legal custody of such individual or individuals; or
2. The designee of such parent or other person having custody, with the written permission of such parent or other person.

The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

§ 28-4. Discrimination in the sale or rental of housing.

Except as exempted by § 28-6, it shall be unlawful within the Town of Canton:

- A. To 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, national origin, sex, family status or household composition or disability.
- B. To discriminate against any person in the terms, conditions, privileges of sale or rental of a dwelling or in the provision of services or facilities therewith because of race, color, religion, national origin, sex, family status or household composition or disability.
- C. To make, print, 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, national origin, sex, family status or household composition or disability or an intention to make any such preference, limitation or discrimination.
- D. To represent to any person because of race, color, religion, national origin, sex, family status or household composition or disability 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 or persons of a particular race, color, religion, national origin, sex, family status or household composition or disability.

§ 28-5. Discrimination in the provision of brokerage services.

It shall be unlawful within the Town of Canton to deny any person access to or membership or participation in any multiple listing service, real estate broker's 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, national origin,, sex, familial status or household composition or disability.

§ 28-6. Exemptions.**A. Sales and rentals by owners.**

1. Nothing in § 28-4 (other than Subsection C) shall apply to:
 - a. Any single-family house sold or rented by an owner, provided that such private individual owner does not own more than three (3) such single-family houses at any one (1) time; provided, further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale, or who was not the recent resident of such house at time of such sale, the exception granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four-month period; provided, further, that such bona fide private individual owner does not have any interest in, nor is there owned or reserved on his behalf under any express or voluntary agreement, title, right to all or a portion of the proceeds from the sale, or rental of more than three (3) such single-family houses at one (1) time; provided, further, that the sale or rental of any such single-family house shall be excepted from the application of this chapter only if such house is rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson or person; and without publication, posting or mailing after notice, of any advertisement or written notice in violation of § 28-3 of this chapter; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional

- assistance as may be necessary to perfect or transfer title; or
- b. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

2. For the purpose of this exemption, a person shall be deemed to be in the business of selling or renting dwellings if:

- a. He has, within the preceding twelve (12) months, participated as a principal in three (3) or more transactions involving the sale or rental of any dwelling or interest therein;
- b. He has, within the preceding twelve (12) months, participated as an agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or
- c. He is the owner of any dwelling designed or intended for occupancy by or occupied by five (5) or more families.

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 for giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin, gender, familial status, household composition or disability; 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 or purposes, provides lodging which 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.

§ 28-7. Administration.

A. Authority and responsibility. The authority and responsibility for publicizing, administering and enforcing (to the degree practical) this chapter shall be in the Code Enforcement Officer of the Town of Canton or another person if designated by the Town Superintendent.

- B. Reporting offenses. Violations of this chapter shall be reported in person or in writing to the Town Supervisor within one (1) year of the alleged discriminatory housing practice. The Town Supervisor shall refer all such complaints to the United States Department of Housing and Urban Development's Region II Buffalo Office of Fair Housing and Equal Opportunity for investigation and prosecution (if warranted).
- C. Enforcement. Where sufficient cause exists to believe that the terms of this chapter have been violated, the Office of Fair Housing and Equal Opportunity shall institute a suit in Federal District Court or through an administrative proceeding against the alleged violator following the issuance of the charge.
- D. Penalties for offenses. Where a person or organization has been found, after a trial on the merits, in violation of this chapter and/or Federal Fair Housing Laws, civil penalties shall be imposed on such persons or organizations not to exceed ten thousand dollars (\$10,000.) for a first violation, twenty-five thousand dollars (\$25,000.) for a second violation and fifty thousand dollars (\$50,000.) for a third violation. Each and every separate violation of this chapter or Federal Fair Housing Laws shall be deemed a violation for the purpose of imposing the appropriate civil penalty.

§ 28-8. Miscellaneous provisions.

- A. Amendment. The Town Board may, on its own initiative or petition, amend, supplement or repeal the provisions of this chapter in conformity with applicable law after public notice or hearing.
- B. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, morals, safety or 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.
- C. Validity. The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.
- D. Short title. This chapter shall be known and may be cited as the "Town of Canton's Fair Housing Law."

E. When effective. This chapter shall take effect immediately upon its adoption.