

The Town of Berkshire Fair Housing Law

Town of Berkshire Local Law No. 1 of the year 1993

A local law entitled the Town of Berkshire Fair Housing Law

Be it enacted by the Town Board of the Town of Berkshire as follows:

◆ Article I: Purposes and Enactment

Section 100 - Purposes and Enactment

For the purpose of providing and ensuring fair housing opportunities for all within the Town of Berkshire, the Town Board of the Town of Berkshire, in the County of Tioga, State of New York, under the authority of the General Municipal and Town Laws, hereby ordains, enacts, and publishes this Local Law.

◆ Article II: Definitions

Section 200 - Definitions

Section 201 - General

For the purpose of this Local Law 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.

Section 202 - Specific Words or Phrases

For the purpose of this Local Law, certain terms or words herein shall be interpreted as follows:

"Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one 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.

"Person" includes one or more individuals, labor organizations, legal representatives, mutual companies, joint-stock company trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

"Family" includes a single individual.

"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.

"Discriminatory housing practice" means an act that is unlawful under Articles III, IV, V.

◆ Article III: Discrimination in the Sale or Rental of Housing

Section 300 - Discrimination in the Sale or Rental of Housing

Except as exempted by Article VI, it shall be unlawful within the Town of Berkshire:

- (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, sex, handicap, familial status, or national origin.**
- (b) To 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) To 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) To represent 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 or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.**

◆ Article IV: Discrimination in the Financing of Housing

Section 400 - Discrimination in the Financing of Housing

It shall be unlawful in the Town of Berkshire 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 individuals, corporations, partnerships, associations, representatives, mutual companies, joint-stock companies, applying therefore 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 of 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 of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings 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 of effectiveness of the exception contained in Article VI.

◆ **Article V: Discrimination In the Provision of Brokerage Services**

Section 500 - Discrimination in the Provision of Brokerage Services

It shall be unlawful in the Town of Berkshire 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 participation on account of race, color, religion, sex, handicap, familial status, or national origin.

◆ **Article VI: Exemptions**

Section 600 - Exemptions

Section 601 Sales/Rental by Owners - Nothing in Article III (other than subsection c) shall apply to:

(1) any single-family house sold or rented by an owner: Provided, that such private individual owner does not own more than three such single-family houses at any one 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 prior to such sale, the exception granted by this sub-section shall apply only with respect to one such sale within any twenty-four month period: Provided further, that such bona fide private individual owner does not own any interest, in, nor is there owned or reserved on his behalf under any express or voluntary agreement, title to any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at one time; Provided further, that the sale or rental of any such single-family shall be excepted from the application of this Law only if such house is sold or rented (a) without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any employee or agent of any such broker, agent, salesman, or person, and (b) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of Article III of this Law; but nothing in the 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 the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

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

(1) he has, within the preceding twelve months, participated as principal in three or more transaction any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

Section 602 - Sales/Rentals by Religious Organizations

Nothing in this Law 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 Law prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental of occupancy of such lodgings to its members or from giving preference to its members.

◆ Article VII: Administration

Section 700 - Administration

Section 701 - Authority and Responsibility

The authority and responsibility for publicizing, administering, and enforcing this Local Law shall be in the Town's Fair Housing Officer, to be designated by the Supervisor of the Town of Berkshire.

Section 702 - Violations

Violations of this Law shall be an offense and shall be reported in person or in writing to the Town's Attorney/Fair Housing Officer within a year of the alleged discriminatory housing practice.

Section 703 - Enforcement

Where sufficient cause exists to believe that the terms of this Law have been violated, the Fair Housing Officer shall institute a proceeding in Town Justice Court against the alleged violator within 100 days following the issuance of the charge.

Section 704 - Penalties

Where a person or organization has been found guilty of a violation of this Local Law, a fine shall be imposed on such person or organization not to exceed \$1,000.00. Each and every

separate violation of this Law shall be deemed an offense for the purposes of imposing the appropriate fine.

◆ Article VIII: Miscellaneous Provisions

Section 800 - Miscellaneous Provisions

Section 801 - Amendment

The Town Board may, on its own initiative or on petition, amend, supplement, or repeal the provisions of this Law in conformity with applicable law after public notice and hearing.

Section 802 - Interpretation

In their interpretation and application, the provisions of this Local Law 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 Law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive, or that imposing the highest standards, shall govern.

Section 803 - Validity

The invalidity of any section or provision of this Law shall not invalidate any other section or provision thereof.

Section 804 - Short Title

This Local Law shall be known and may be cited as "The Town of Berkshire Fair Housing Law".

Section 805 - Effective Date

This Local Law shall take effect immediately upon its filing in the Office of the Secretary of State in accordance with the provisions of Section 27 of the Municipal Home Rule Law.