

Hamburg Community Development

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Director of Community Development: Christopher Hull

Hamburg Town Board: Supervisor Steven J. Walters * Councilman Thomas M. Best, Jr. * Councilman Michael P. Quinn, Jr.



Local Law #5; May 23, 2016

Town of Hamburg Fair Housing Ordinance

General Code of the Town of Hamburg - Chapter 109; Fair Housing

Section 109 - 1: Policy:

It is the policy of the Town of Hamburg to provide for fair housing throughout the town.

Section 109 - 2: Definitions:

As used in this chapter, the following words shall have the meaning indicated:

DISABILITY: A disability is a physical or mental impairment which substantially limits one (1) or more major life activities, a record of such an impairment, or a condition regarded by others as such an impairment.

MARITAL STATUS: Shall mean single, married, divorced, separated or widowed.

SOURCE OF INCOME: Shall mean payments from any lawful occupation or employment, as well as other payments including, but not limited to, public assistance, public assistance security agreements, supplemental security income, pensions, annuities, unemployment benefits, government subsidies such as Section 8, or other housing subsidies.

SEXUAL ORIENTATION: Shall mean heterosexuality, homosexuality, bisexuality, asexuality, whether actual or perceived as well as a person's gender identity, self-image, appearance or expression.

ADVERTISING: Shall mean printing, circulating, placing or publishing or causing to be placed or published any written statement with respect to the availability for sale or rental of a dwelling.

HOUSING UNIT: Shall mean any building, structure, or portion thereof which is used or occupied as the home or residence of one or more persons maintaining a common household.

MILITARY STATUS: Shall mean a person's participation in the military service of the United States or the military service of the state including, but not limited to, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law.

Section 109 - 3: Unlawful Acts: It shall be unlawful:

A: To refuse to sell or rent or refuse to negotiate for the sale or rental or to deny any dwelling to any person because of race, color, religion, sex, age, marital status, disability, national origin, source of income, sexual orientation, military status or because the person has a child or children.

- 3) To the rental of rooms in a housing accommodation if such rental is by the occupant of the housing accommodation or the owner of the housing accommodation and he or members of his family reside in such housing accommodation.
- 4) Solely with respect to age to the restriction of the sale, rental or lease of housing accommodations exclusively to persons fifty-five (55) years of age or older.

Section 109 - 6: Enforcement:

- A) Filing of complaints:
 - 1) The Town shall receive and investigate complaints under this chapter. The Supervisor shall designate the Director of Community Development of the Town to perform the function contained in this section and may also designate a not-for-profit fair housing organization to either assist the Director of Community Development in conducting investigations or to complete said function and investigations.
 - 2) Any person or organization, whether or not an aggrieved party, may file with the Supervisor's designee a complaint of a violation of this chapter.
 - 3) The Supervisor's designee may investigate individual instances and patterns of conduct prohibited by this chapter, even without a complaint from another person or organization, and may initiate complaints in connection therewith.
- B) Investigation: The Supervisor's designee shall notify the accused party, in writing, within thirty (30) days of the filing of any complaint. The designee shall make a prompt investigation in connection with the complaint and within one hundred (100) days after the complaint is filed, determine whether the Town has jurisdiction and, if so, whether there is probable cause to believe that the person named in the complaint (hereinafter referred to as the respondent), has engaged or is engaging in an unlawful discriminatory practice. If, during or after the investigation, the designee believes that appropriate action to preserve the status quo or to prevent irreparable harm is advisable, the designee shall advise the Town Attorney, in writing, to bring immediately in the name of the Town, any action necessary to preserve such status quo or to prevent such harm, including the seeking of temporary restraining orders and preliminary injunctions.
- C) Action: If, at the conclusion of the investigation, the Supervisor's designee shall determine that there is probable cause to credit the allegation of the complaint, the designee shall certify the matter to the Town Attorney, who shall institute proceedings in the name of the Town. In the event of a conflict of interest between Town personnel and the respondent(s), the Supervisor's designee may refer the matter to outside counsel providing notice to interested parties within 30 days of the date upon which the conflict was determined.
- D) Conciliation: If, in the judgment of the Supervisor's designee, a conciliation agreement would satisfactorily resolve the complaint, he/she shall seek to facilitate such an agreement which may include provisions requiring the respondent to refrain from unlawful discriminatory practices and pay such compensation and/or perform affirmative relief as is agreed upon by the parties. Conciliation agreements shall not be subject to confidentiality.

Section 109 - 7: Penalties for offenses:

- A) Any person found to have violated any provision of this chapter shall be subject to the following:

- A) Housing providers or real estate brokers located within the Town selling or renting twenty (20) or more dwelling units within a calendar year shall formulate an Affirmative Fair Housing Marketing Plan, which must be filed with the Director of Community Development or his designee. At minimum, such Affirmative Fair Housing Marketing Plan shall include: (1) a statement of non-discrimination and (2) a marketing plan designed to attract a diverse pool of applicants. The Town may require annual reports of housing providers' compliance with their plans.
- B) Housing providers and real estate brokers located within the Town selling or renting twenty (20) or more dwelling units within a calendar year shall be required to use the equal opportunity logotype on applications and marketing materials and to display in rental or real estate offices a public notice of equal opportunity housing.

Section 109-11: Affirmatively furthering fair housing:

It shall be the policy of the Town to affirmatively further fair housing by adopting zoning ordinances which promote the inclusion of affordable rental housing in all multi-family developments of eight or more units.

- (A) Affordable housing shall be defined as housing for which rent and utilities shall constitute no more than thirty percent of the gross annual income for a household whose income is greater than fifty percent but does not exceed eighty percent of the Erie County median income.
- (B) The Town shall offer a density bonus which allows the developer to increase the number of market-rate units permitted to be built on a site at a rate of one additional market-rate unit for each affordable unit.
- (C) In calculating the number of affordable units, the total number of proposed units shall be multiplied by ten percent. If the product produces a fraction, a fraction of 0.5 shall be rounded up to the next higher whole number and a fraction of less than 0.5 shall be rounded down to the next lower whole number.
- (D) In order to assure integration within a multi-family development, affordable units shall not be clustered, but mixed with market-rate units. Additionally, the exterior appearance of affordable units shall be made similar to market-rate units by the provision of exterior finishes and materials of substantially the same type and quality.
- (E) Developers shall be required to maintain affordability of designated units for a period of not less than thirty years from the date a certificate of occupancy is issued. In the event a multi-family development is sold, the new owner shall be responsible for maintaining affordability of units for the balance of the regulatory period.

Section 109 - 12: Expedition of proceedings:

Any court in which a proceeding under this chapter is instituted shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

Section 109 - 13: Construal of provisions:

Nothing in this chapter shall be construed to invalidate or limit any law of the state, the United States, or any other jurisdiction that grants, guarantees or protects the same rights granted, guaranteed or protected by this chapter.