MARINETTE SPECIAL PUBLIC WORKS, PUBLIC HEARINGS & AMENDED CITY COUNCIL MEETING AGENDA (adding 7a, 15d and second Closed Session item) PACKET FOR TUESDAY AUGUST 4, 2020 MEETING AT CITY HALL COMMON COUNCIL CHAMBERS, 1905 HALL AVENUE – IN CONSIDERATION OF OTHERS, PLEASE MUTE ALL ELECTRONIC DEVICES AND PLEASE WEAR A FACE MASK

PUBLIC HEARINGS & SPECIAL MEETINGS PRIOR TO THE COMMON COUNCIL MEETING
(A quorum of Common Council members may be present at the special meetings and Public Hearings)

5:35 PM- SPECIAL PUBLIC WORKS AGENDA

a. Call to order
b. Roll Call
c. Discussion and possible recommendation to the Common Council regarding Professional Service Agreement from Robert E. Lee for the 2020 Illicit Discharge Detection and Elimination Program.
d. Discussion and possible recommendation to the Common Council regarding Bid Results regarding Hattie Street Bridge Fishing Platform Concrete Repairs, Project No. 2020-800 (handout at meeting).
e. Adjourn

Committee Chairperson Keller

5:40PM – PUBLIC HEARING

The purpose of the Public Hearing is to receive public comment regarding discontinuing/Vacating a portion of Public Way located at 1515 Main St.

5:50 PM– PUBLIC HEARING

The purpose of the Public Hearing is to receive public comment upon the Report and Recommendation of the Plan Commission to amend a portion of the text of the Marinette Zoning Code.

6:00 PM – REGULAR CITY OF MARINETTE COMMON COUNCIL MEETING AGENDA

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. CITIZEN COMMENTS (Limited to five (5) minutes per person per Municipal code on agenda items only)
5. REPORTS FROM DEPARTMENTS, CITIZEN BOARDS AND COMMISSIONS (This item shall include a written monthly financial report from Marinette Water and Wastewater Utilities Commissions.) 


7. MAYOR’S REPORT

7a NEW BUSINESS

a. Discussion and acceptance of petition received on 8/3/20 regarding flooding of streets and properties East of Almeda St within the Levee.

8. FINANCE AND INSURANCE COMMITTEE (Committee Chairperson Kowalski)

a. Recommendation to grant advance authorization to pay July 2020 expenditures pursuant to WI Stat. § 66.0609 contingent upon final review & approval of City of Marinette Finance and Insurance Committee.

b. Consideration and approval of the June 2020 budget reports.

9. PERSONNEL AND LICENSE COMMITTEE (Committee Chairperson Keller)

Cc: Common Council members w/enc; Mayor w/enc; City Attorney w/enc; Public Works Director w/enc; Police Chief w/e-mailed enc.; Finance Director w/e-mailed enc.; City Clerk w/enc.; City Assessor w/e-mailed enc.; Fire Chief w/e-mailed enc.; all other Department Heads; Bay Cities Radio w/e-mailed enc.; Eagle Herald w/e-mailed enc.; Peddigo Times w/e-mailed enc.; web site & City Hall Bulletin Board.

Common Council Agenda Page 1 of 2
a. Consideration of recommendation regarding Late Renewal Alcohol Beverage License Application for Cactus Bar for Class B fermented malt beverage and liquor.

b. Consideration of recommendation regarding twenty-six (26) renewal Operator license applications.

c. Consideration of recommendation regarding thirteen (13) new Operator license applications.

10. CIVIC AFFAIRS, TRAFFIC AND LIGHTS & CEMETARY COMMITTEE (Committee Chairperson Flatt)
a. Civic Affairs, Traffic and Lights & Cemetery Committee did not have any Common Council recommendations in July.

11. BOARD OF PUBLIC WORKS (Board President)
a. Consideration of recommendation regarding Pay Request No. 3 in the amount of $232,722.67, and Change Order No. 2 in the amount of +$1,812.05, to Barley Trucking and Excavating, Inc. for the State Street Reconstruction Project, No. 2020-100.

b. Consideration of recommendation regarding Professional Service Agreement from Robert E. Lee for the 2020 Illicit Discharge Detection and Elimination Program.

c. Consideration of recommendation regarding Bid Results regarding Hattie Street Bridge Fishing Platform Concrete Repairs, Project No. 2020-800 (handout at meeting).

12. PARKS AND RECREATION COMMITTEE (Committee Chairperson Kowalski)
a. Parks & Recreation Committee did not have any Common Council recommendations for the month of July.

13. PUBLIC SAFETY AND CODE ENFORCEMENT COMMITTEE (Committee Chairperson Skorik)
a. Consideration of recommendation regarding “The Solution’s” service agreement between Brycer LLC, and the Marinette Fire Department.

b. Consideration of recommendation regarding (MOU) Memorandum of Understanding between the Marinette County Sheriff and the Marinette Fire Department.

14. PLAN COMMISSION (Mayor Genisot)
a. Committee members recommend approval of Ordinance No. 2444 to be considered later on tonight’s agenda.

15. RESOLUTIONS AND ORDINANCES
a. Resolution No. – 15-2020 – Resolution and order of discontinuance/Vacation of a Public Way, To Wit a portion of City court lying behind the former Bay Area Medical Center Parking Lot (1515 Main St) Marinette, WI 54143.


c. Ordinance No. 2445-Amending MMC 9.1302 (Fee Schedule A) pertaining to Commercial Plumbing and Electrical.

d. Ordinance No. 2446- Amending Chapter 17: Fair Housing

16. CLOSED SESSION

DELIBERATING OR NEGOTIATING THE PURCHASING OF PUBLIC PROPERTIES, THE INVESTING OF PUBLIC FUNDS, OR CONDUCTING ANY OTHER SPECIFIED PUBLIC BUSINESS, WHENEVER COMPETITIVE OR BARGAINING REASONS REQUIRE A CLOSED SESSION PURSUANT TO WIS. STATS. SECTION 19.85(1)(e) to wit: (Hans-Bay-Wait, LLC) contacting the City regarding either the purchase or sale of her property and 19.85 (1)(e) to wit: discussion with legal counsel regarding documents related to the Trolley Station project.

Pursuant to Wis. Stat. §19.85(2), the Common Council may reconvene in open session immediately after conclusion of the closed session to take action, if any, on any closed session agenda item.

17. ADJOURNMENT

MAYOR STEVE GENISOT

Requests from individuals with disabilities who need special accommodations to participate in this meeting or hearing should be made to the City Clerk’s Office at 1-715-732-5141
CITY OF MARINETTE, WISCONSIN

AN ORDINANCE
Amending Chapter 17: Fair Housing

Drafted by: Robert Gagan
City Attorney
Date: 8-3-20

PRESENTED CC 8-4-20
REFERRED
REREFERRED
REPORTED BACK
ADOPTED
PUBLIC HEARING
PUBLISHED

ORDINANCE NUMBER 2446

The Common Council of the City of Marinette do ordain as follows:

Section 1. Marinette Municipal Code Chapter 17 is amended as follows:

CHAPTER 17: FAIR HOUSING

17.0100 STATE STATUTES ADOPTED

The Common Council of the City of Marinette hereby adopts Section 106.50 Wisconsin Statutes, as amended, and all subsequent amendments thereto.

17.0200 AUTHORITY AND ENFORCEMENT PROCEDURES IMPLEMENTED

The officials and employees of the City of Marinette shall assist in the orderly prevention and removal of all discrimination in housing within the City of Marinette by implementing the authority and enforcement procedures set forth in Section 106.50, Wisconsin Statutes, as amended.

17.0300 COMPLAINTS

The City of Marinette Clerk shall maintain forms for complaints to be filed under Section 106.50, Wisconsin Statutes, as amended, and shall assist any person alleging a violation thereof in the City of Marinette to file a complaint thereunder with the Wisconsin Department of Workforce Development, Equal Rights Division, for enforcement of section 106.50, Wisconsin Statutes, as amended.

17.0400 PENALTIES

Any person violating any provision of this ordinance shall, in addition to the enforcement provisions in Wisconsin Statute 106.50, upon conviction thereof, be subject to the applicable penalty provisions of this Municipal Code.
Section 2. The provisions of this ordinance are declared to be severable. If any section, sentence, clause, phrase, or application of this ordinance is held to be invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining sections, sentences, clauses, phrases, or applications of this ordinance, which shall remain in effect. It is the legislative intent that this ordinance shall remain in effect notwithstanding the invalidity of any part or application of this ordinance.

Section 3. This ordinance shall take effect upon passage and publication as provided by law.

Motion for adoption by Alderperson
Seconded by Alderperson
On roll call adopted

____________________
Steve Genisot, Mayor

Attest:

____________________
Lana Bero, Clerk
106.50 Open housing. (1) **INTENT.** It is the intent of this section to render unlawful discrimination in housing. It is the declared policy of this state 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 and it is the duty of the political subdivisions to assist in the orderly prevention or removal of all discrimination in housing through the powers granted under ss. 60.0125 and 60.101. The legislature hereby extends the state law governing equal housing opportunities to cover single-family residences that are owner-occupied. The legislature finds that the sale and rental of single-family residences constitute a significant portion of the housing business in this state and should be regulated. This section shall be considered an exercise of the police powers of the state for the protection of the welfare, health, peace, dignity, and human rights of the people of this state.

(1m) **DEFINITIONS.** In this section:

(ad) "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.

(am) "Age", in reference to a member of a protected class, means at least 18 years of age.

(an) "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.

(ao) "Complainant" means a person who files a complaint alleging discrimination in housing.

(ad) "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 the department.

(an) "Condominium" has the meaning given in s. 703.02 (4).

(arn) "Condominium association" means an association, as defined in s. 703.02 (1m).

(aq) "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 s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m), unless the individual is participating in a supervised drug rehabilitation program.

(ar) "Discriminate" means to segregate, separate, exclude, or treat a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r) 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.

(as) "Dwelling unit" means a structure or 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.

(au) "Emotional support animal" means an animal that provides emotional support, well-being, comfort, or companionship for an individual but that is not trained to perform tasks for the benefit of an individual with a disability.

(ay) "Family" includes one natural person.

(az) "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:

1. A person is pregnant.

2. A person is in the process of securing sole or joint legal custody, periods of physical placement or visitation rights of a minor child.

3. A person's household includes one or more minor or adult relatives.

4. 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.

5. 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.

(km) "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.

(L) "Housing" means any improved property, or any portion thereof, including a mobile home as defined in s. 101.91 (10), manufactured home, as defined in s. 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.

(mn) "Housing for older persons" means any of the following:

1. 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.

2. Housing solely intended for, and solely occupied by, persons 62 years of age or older.

3. Housing primarily intended and primarily operated for occupancy by at least one person 55 years of age or older per dwelling unit.

(mm) "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.

(mx) "Licensed health professional" means a physician, psychologist, social worker, or other health professional who satisfies all of the following:

1. He or she is licensed or certified in this state.

2. He or she is acting within the scope of his or her license or certification.

(nm) "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 assault, or stalking, lawful source of income, age, or ancestry.

(on) "Political subdivision" means a city, village, town or county.

(oq) "Relative" means a parent, grandparent, greatgrandparent, stepparent, step grandparent, brother, sister, child, stepchild, grandchild, step grandchild, greatgrandchild, 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.

(oz) "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.

(ps) "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.

(1) "Sexual orientation" has the meaning given in s. 111.32 (13m).

(u) "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 s. 913.12 (1) (am), sexual assault under s. 940.225, 948.02, or 948.025, or stalking under s. 940.32.

(15) DEPARTMENT TO ADMINISTER. This section shall be administered by the department through its division of equal rights. The department may promulgate such rules as are necessary to carry out this section. No rule may prohibit the processing of any class action complaint or the ordering of any class-based remedy, or may provide that complaints may be consolidated for administrative convenience only.

(2) DISCRIMINATION PROHIBITED. It is unlawful for any person to discriminate:

(a) By refusing to sell, rent, finance or contract to construct housing or by refusing to negotiate or discuss the terms thereof.

(b) By refusing to permit inspection or examining different or more stringent price, terms or conditions for the sale, lease, financing or rental of housing.

(c) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.

(d) By advertising in a manner that indicates discrimination by a preference or limitation.

(e) 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.

(f) By refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant.

(g) In providing the privileges, services or facilities that are available in connection with housing.

(h) By falsely representing that housing is unavailable for inspection, rental or sale.

(i) By denying access to, or membership or participation in, a multiple listing service or other real estate service.

(j) 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 section, or with a person who has aided or encouraged another person in the exercise or enjoyment of a right granted or protected under this section.

(k) 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:

1. 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.

2. Selling, brokering or appraising residential real property.

(L) By otherwise making unavailable or denying housing.

(2m) 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:

(a) The lowering of real estate values in the area concerned.

(b) A deterioration in the character of the area concerned.

(c) An increase in criminal or antisocial behavior in the area concerned.

(d) A decline in the quality of the schools or other public facilities serving the area.

(2r) DISCRIMINATION AGAINST PERSONS WITH DISABILITIES PROHIBITED. In addition to discrimination prohibited under sub. (2) and (2m), no person may do any of the following:

1. 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 such housing after it is sold, rented or made available or a disability of a person associated with that buyer or renter.

2. 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 such housing after it is sold, rented or made available or a disability of a person associated with the person.

3. 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 reasonably 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.

4. 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.

(bg) Animals that do work or perform tasks for individuals with disabilities. 1. If an individual has a disability and a disability-related need for an animal that is individually trained to do work or perform tasks for the individual, 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 the individual as a condition of continued residence in housing, or engage in the harassment of the individual because he or she keeps such an animal.

2. If an individual keeps or is seeking to keep an animal that is individually trained to do work or perform tasks in housing, an owner, lessor, lessor’s agent, owner’s agent, or representative of a condominium association may request that the individual submit to the owner, lessor, agent, or representative reliable documentation that the individual has a disability and reliable documentation of the disability-related need for the animal, unless the disability is readily apparent or known. If the disability is readily apparent or known but the disability-related need for the animal is not, the individual may be requested to submit reliable documentation of the disability-related need for the animal.

3. An individual with a disability who keeps an animal that is individually trained to do work or perform tasks in housing shall accept liability for sanitation with respect to, and damage to the premises caused by, the animal.
4. Nothing in this subsection prohibits an owner, lessee, lessee’s agent, owner’s agent, or representative of a condominium association from denying an individual the ability to keep an animal in housing if any of the following applies:
   a. The individual is not disabled, does not have a disability-related need for the animal, or fails to provide the documentation requested under subd. 2.
   b. Allowing the animal would impose an undue financial and administrative burden or would fundamentally alter the nature of services provided by the lessor, owner, or representative.
   c. The specific animal in question poses a direct threat to a person’s health or safety that cannot be reduced or eliminated by another reasonable accommodation.

(b) Emotional support animals. 1. If an individual has a disability and a disability-related need for an emotional support animal, 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 the individual as a condition of continued residence in housing, or engage in the harassment of the individual because he or she keeps such an animal.

2. If an individual keeps or is seeking to keep an emotional support animal in housing, an owner, lessor, lessee’s agent, owner’s agent, or representative of a condominium association may request the individual submit to the owner, lessor, lessee’s agent, owner’s agent, or representative reliable documentation that the individual has a disability and a reasonable basis to deny the individual the ability to keep an emotional support animal from a licensed health professional.

3. An individual with a disability who keeps an emotional support animal in housing shall accept liability for sanitation with respect to, and damage to, the premises caused by, the animal.

4. Nothing in this subsection prohibits an owner, lessee, lessee’s agent, owner’s agent, or representative of a condominium association from denying an individual the ability to keep an animal in housing if any of the following applies:
   a. The individual is not disabled, does not have a disability-related need for the animal, or fails to provide the documentation requested under subd. 2.
   b. Allowing the animal would impose an undue financial and administrative burden or would fundamentally alter the nature of services provided by the lessor, owner, or representative.
   c. The specific animal in question poses a direct threat to a person’s health or safety that cannot be reduced or eliminated by another reasonable accommodation.
   d. The specific animal in question would cause substantial physical damage to a person’s property that cannot be reduced or eliminated by another reasonable accommodation.

5. An individual shall forfeit not less than $500 if he or she, for the purpose of obtaining housing, intentionally misrepresents that he or she has a disability or misrepresents the need for an emotional support animal to assist with his or her disability.

6. A licensed health professional shall forfeit not less than $500 if he or she, for the purpose of allowing the patient to obtain housing, misrepresents that his or her patient has a disability or misrepresents his or her patient’s need for an emotional support animal to assist with his or her patient’s disability.

(c) Design and construction of covered multifamily housing. In addition to discrimination prohibited under pars. (b) (bg), and (br) and subs. (2) and (2m), no person may design or construct covered multifamily housing, as defined in s. 101.132 (1) (d), unless it meets the standards specified in s. 101.132 (2) (a) 1. to 4. as required under s. 101.132 (2) (b) 1., 2., or 3., whichever is applicable.

(d) Exemptions and exclusions. (a) Nothing in this section prohibits discrimination based on age or family status with respect to housing for older persons.

1. Under this paragraph, housing under sub. (1m) (m) 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:
   a. At least 80 percent of the dwelling units under sub. (1m) (m) 3. are occupied by at least one person 55 years of age or older.
   b. The owner or manager may document compliance with this subd. 1c. by maintaining records containing written verification of the ages of the occupants of the housing.

1m. No person may discriminate by refusing to continue renting to a person living in housing for older persons under sub. (1m) (m) 3. who is subject to a hardship condition.

2. 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.

(b) 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.

(c) 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.

(d) 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 or 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.

(dm) 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 solld. 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:

1. 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.

2. 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:

a. Sought an injunction under s. 813.12, 813.122, 813.123, or 813.125 restraining the person from occupying on the premises.

b. Upon receiving notice under s. 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.

c. 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.

(em) 1. 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 s. 101.71 (2) except that dwelling unit does not include any residence occupied by more than 5 persons.

2. 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. (2)(d), 42 USC 3604 (c), or any rules or regulations promulgated under this section or 42 USC 3603 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.

(f) 1. 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.

2. Notwithstanding subd. 1., an owner or agent may require that a person who seeks to buy or rent housing under sub. (1)(m) 3. supply information concerning his or her age for the purpose of verifying compliance with par. (a) 1.e. b.

(g) A person may not be held personally liable for monetary damages for a violation of sub. (2)(2m) or (2r) 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:

1. That he or she has no actual knowledge that the housing is not or will not be eligible for the exemption.

2. That the owner of the housing has stated formally, in writing, that the housing complies with the requirements for the exemption.

(6) FAIR HOUSING ADMINISTRATIVE ENFORCEMENT. (a) Complaints. 1. The department may receive and investigate a complaint charging a violation of sub. (2), (2m) or (2r) if the complaint is filed with the department not later than one year after the alleged discrimination occurred or terminated.

2. The complaint shall include a written statement of the essential facts constituting the discrimination that is charged, and shall be signed by the complainant.

3. The complaint may be filed by an aggrieved person, by an interested person, by the department of workforce development under par. (b) or, if the complaint charges a violation of sub. (2r) (c), by the department of safety and professional services. The department of workforce development shall, upon request, provide appropriate assistance in completing and filing complaints.

4. The department shall serve notice on the aggrieved person acknowledging the filing of the complaint and advising the complainant of the time limits and choice of forums provided under this subsection and the right to bring a private civil action under sub. (6m).

5. Upon the filing of an initial, amended, final or supplemental complaint, the department shall promptly serve a copy of the complaint upon the respondent, except where testing may be conducted. The initial complaint may be amended before the commencement of the investigation by the department, except where testing may be conducted. The notice shall be sent by certified mail, return receipt requested. The notice to the respondent shall include a written statement from the department 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, the department will make an initial determination as to whether discrimination has occurred based only on the department’s investigation and the information supplied by the complainant.

6. The department may dismiss the complaint if the complainant fails to respond to the department within 20 days from the date of mailing of any correspondence from the department concerning the complaint, if the department’s correspondence requests a response and if the correspondence is sent by certified mail, return receipt requested, to the last known address of the complainant.

(b) Powers and duties of department. The department of workforce development and its duly authorized agents may hold hearings, subpoena witnesses, take testimony and make investigations as provided in this subsection. The department of workforce development may test and investigate for the purpose of establishing violations of sub. (2), (2m) or (2r) and may make, sign and file complaints alleging violations of sub. (2), (2m) or (2r) or for any other purpose. The department of safety and professional services may make, sign and file complaints alleging violations of sub. (2r) (c). The department of workforce development shall employ examiners to hear and decide complaints of discrimination under this section, and to assist in the administration of this section. The examiners may make findings and issue orders under this subsection.

The department of workforce development shall develop and implement an investigation manual for use in conducting investigations under par. (c).

(c) Investigation and finding of probable cause. 1. The department shall investigate all complaints that allege a violation of this section and that are filed within the time specified under par. (a). The department may subpoena persons or documents for the purpose of investigation. If during an investigation it appears that the respondent has engaged in discrimination against the complainant which is not alleged in the complaint, the department may advise the complainant that the complaint should be amended. If the complaint is amended, the department shall also investigate the allegations of the amended complaint.

2. At the conclusion of the investigation of the allegations, the department shall make a determination as to whether probable cause exists to believe that discrimination has occurred or is about to occur. In making a determination of probable cause, the department shall consider whether the facts concerning the alleged discrimination are sufficient to warrant the initiation of a civil action. If the department determines that probable cause exists, the department shall immediately issue a charge on behalf of the aggrieved person and refer the charge to the attorney general. If the attorney general concurs in the department’s determination of probable cause, the attorney general shall represent the aggrieved person at the hearing under par. (f) or, if an election is made under sub. 2m., commence a civil action in the name of the state on behalf of the aggrieved person under sub. (6m).

2m. Service of copies of the charge shall be made on the complainant, the respondent, and the aggrieved person by certified mail, return receipt requested. When a charge is filed, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in that charge decided in a civil action under sub. (6m) in lieu of a hearing under par. (f). The election shall be made no later than 20 days after the receipt by the electing person of service of the charge, along with information about how to make the election. If an election is made, the person making the election shall give notice of
doing so to the department and to all other complainants and respondents to whom the charge relates. The department shall notify the aggrieved persons that an election is made.

No charge may be issued regarding alleged discrimination after the beginning of the trial of a civil action commenced by the aggrieved party under sub. (2m) or 42 USC 3613, seeking relief with respect to that discriminatory act.

4. If the department initially determines that there is no probable cause to believe that discrimination occurred as alleged in the complaint, it may dismiss those allegations. The department shall, by a notice to be served with the determination, notify the parties of the complainant’s right to appeal the dismissal of the claim to the secretary for a hearing on the issue by a hearing examiner. Service of the determination shall be made by certified mail, return receipt requested. If the hearing examiner determines that no probable cause exists, that determination is the final determination of the department and may be appealed under par. (j).

(d) Temporary judicial relief. At any time after a complaint is filed alleging discrimination in violation of sub. (2), (2m), or (2r), the department may request the attorney general to file a petition in the circuit court for the county in which the act of discrimination occurred, or for the county in which the respondent resides or transacts business, seeking a temporary injunction or restraining order against the respondent to prevent the respondent from performing an act that would tend to render ineffectual an order that the department may enter with respect to the complaint, pending final determination of proceedings under this section. On receipt of the department’s request, the attorney general shall promptly file the petition.

(e) Conciliation. 1. Upon the filing of a complaint alleging discrimination in violation of sub. (2), (2m) or (2r), the department may endeavor to eliminate the discrimination by conference, conciliation and persuasion. The department shall notify the parties that conciliation services are available.

2. Conciliation efforts may be undertaken by the department during the period beginning with the filing of the complaint and ending with the dismissal of the complaint under par. (c) 4. or the issuance of a charge under par. (c) 2.

3. If conciliation resolves the dispute, a written conciliation agreement shall be prepared which shall state all measures to be taken by each party. The agreement may provide for dismissal of the complaint if the dismissal is without prejudice to the complainant’s right to pursue the complaint against any respondent who fails to comply with the terms of the agreement. The agreement shall be signed by the respondent, the complainant and the aggrieved person and is subject to approval by the department. A conciliation agreement entered into under this subdivision is a public record and is subject to inspection under s. 19.35, unless the parties to the agreement request that the record be exempt from disclosure and the department finds that disclosure is not required to further the purposes of this section.

4. Whenever the department has reasonable cause to believe that a respondent has breached a conciliation agreement, the department shall refer the matter to the attorney general with a recommendation that a civil action be filed for enforcement of the agreement.

(f) Hearing procedures. 1. After the department issues a charge under par. (c) 2., the department shall serve the charge, along with a written notice of hearing, specifying the nature and acts of discrimination which appear to have been committed, and requiring the respondent to answer the charge at a hearing before an examiner. The notice shall specify a time of hearing, not less than 10 days after service of the charge, and a place of hearing within the county in which the violation is alleged to have occurred.

2. If an election is not made under par. (c) 2m., the hearing shall be conducted by a hearing examiner. If the attorney general has concurred in the department’s determination of probable cause under par. (c) 2., the aggrieved person on whose behalf the charge was issued shall be represented by the attorney general. Any other person who is aggrieved, with respect to the issues to be determined at the hearing, may be represented by private counsel.

3. The department, the attorney general, or a party’s attorney of record may issue a subpoena to compel the attendance of a witness or the production of evidence. A subpoena issued by an attorney shall be in substantially the same form as provided in s. 805.07 (4) and shall be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of issuance, send a copy of the subpoena to the hearing examiner who is responsible for conducting the hearing.

4. The testimony at the hearing shall be recorded by the department. Discovery shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence. The hearing under this paragraph shall be conducted in an expeditious and inexpensive manner, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record. The burden of proof is on the party alleging discrimination.

5. If after the hearing the examiner finds by a fair preponderance of the evidence that the respondent has violated sub. (2), (2m) or (2r), the examiner shall make written findings and order the respondent to take actions that will effectuate the purpose of sub. (2), (2m) or (2r), and may order other penalties, damages and costs as provided in pars. (h) and (i). The department shall serve a certified copy of the final findings and order on the aggrieved party, the complainant and the respondent. The order shall have the same force as other orders of the department and be enforced as provided in this subsection except that the enforcement of the order is automatically stayed upon the filing of a petition for review under par. (j).

6. If the examiner finds that the respondent has not engaged in discrimination as alleged in the complaint, the department shall serve a certified copy of the examiner’s findings on the aggrieved party, the complainant and the respondent together with an order dismissing the complaint. If the complaint is dismissed, costs in an amount not to exceed $100 plus actual disbursements for the attendance of witnesses may be assessed against the department in the discretion of the department.

(g) Time limitations. 1. The department shall commence proceedings with respect to a complaint before the end of the 30th day after receipt of the complaint.

2. The department shall investigate the allegations of the complaint and complete the investigation not later than 100 days after receipt of the complaint. If the department is unable to complete the investigation within 100 days, it shall notify the complainant and respondent in writing of the reasons for not doing so.

3. The department shall make final administrative disposition of a complaint within one year after the date of receipt of a complaint, unless it is impracticable to do so. If the department is unable to do so, it shall notify the complainant and respondent in writing of the reasons for not doing so.

(h) Damages and penalties. 1. If the hearing examiner finds that a respondent has engaged in or is about to engage in a discriminatory act prohibited under sub. (2), (2m) or (2r), the hearing examiner shall promptly issue an order for such relief as may be appropriate, which may include economic and noneconomic damages suffered by the aggrieved person, regardless of whether he or she intervened in the action, and injunctive or other equitable relief. The hearing examiner may not order punitive damages.

2. In addition to any damages ordered under subd. 1., the hearing examiner may assess a forfeiture against a respondent who is not a natural person in an amount not exceeding $10,000, unless the respondent who is not a natural person has been adjudged to have committed any prior discriminatory act under sub. (2), (2m) or (2r). If a respondent who is not a natural person has been adjudged to have committed one or more discriminatory acts under sub. (2), (2m) or (2r) during the preceding 5-year period, based on
on the offense date of the prior discriminatory act, the hearing examiner may assess a forfeiture in an amount not exceeding $25,000. If a respondent who is not a natural person has been adjudged to have committed 2 or more prior discriminatory acts under sub. (2), (2m) or (2r) during the preceding 7-year period, based on the offense date of the prior discriminatory act, the hearing examiner may assess a forfeiture in an amount not exceeding $50,000.

5. In addition to any damages ordered under sub. 1., the administrative law judge may assess a forfeiture against a respondent who is a natural person in an amount not exceeding $10,000, unless the respondent who is a natural person has been adjudged to have committed any prior discriminatory acts under sub. (2), (2m) or (2r). If a respondent who is a natural person has been adjudged to have committed one other prior discriminatory act under sub. (2), (2m) or (2r) based on an offense date that is before September 1, 1992, the administrative law judge may assess a forfeiture in an amount not exceeding $25,000. If a respondent who is a natural person has been adjudged to have committed 2 or more prior discriminatory acts under sub. (2), (2m) or (2r) based on an offense date that is before September 1, 1992, the administrative law judge may assess a forfeiture in an amount not exceeding $50,000.

(i) Attorney fees and costs. The hearing examiner may assess a prevailing plaintiff, including the state, reasonable attorney fees and costs. The state shall be liable for those fees and costs if the state is a respondent and is determined to have committed a discriminatory act under sub. (2), (2m) or (2r).

(j) Judicial review. Within 30 days after service upon all parties of a determination of the department under this subsection, the respondent, the complainant or the aggrieved party may appeal the order or the determination to the circuit court for the county in which the alleged discrimination took place by the filing of a petition for review. The court shall review the order or determination as provided in ss. 227.52 to 227.58.

1. Civil actions. (a) Any person alleging a violation of sub. (2), (2m), or (2r), including the attorney general on behalf of an aggrieved person, may bring a civil action for injunctive relief, for damages, including punitive damages, and, in the case of a prevailing plaintiff, for court costs and reasonable attorney fees.

(b) An action commenced under par. (a) may be brought in the circuit court for the county where the alleged violation occurred or in any other county where the person against whom the civil complaint is filed resides or has a principal place of business, and shall be commenced within one year after the alleged violation occurred or terminated. The one-year statute of limitations under this paragraph shall be tolled while an administrative proceeding with respect to the same complaint is pending.

(c) The court may issue a permanent or temporary injunction or restraining order to assure the rights granted by this section.

2. The court may order other relief that the court considers appropriate, including monetary damages, actual and punitive, a forfeiture as provided in sub. (6) (b) and costs and fees as provided in sub. (6) (i).

(d) If the attorney general has reasonable cause to believe that any person is engaged in a pattern or practice of discrimination in violation of sub. (2), (2m) or (2r) or that any person has been denied any of the rights granted under sub. (2), (2m) or (2r), and such denial raises an issue of general public importance, the department of justice may commence a civil action.

3. Discrimination by licensed or franchised persons. (a) If the department finds reasonable cause to believe that an act of discrimination has been or is being committed in violation of this section by a person taking an action prohibited under sub. (2), (2m) or (2r) and that the person is licensed or franchised under state law, the department shall notify the licensing or franchising agency of its findings and may file a complaint with such agency together with a request that the agency initiate proceedings to suspend or revoke the license or charter of such person or take other less restrictive disciplinary action.

(b) Upon filing a complaint under par. (a), the department shall make available to the appropriate licensing or franchising agency all pertinent documents and files in its custody, and shall cooperate fully with such agency in the agency's proceedings.