

SUB. 4 TO ORD. AMDT. 22, 08-09

**AMENDING CHAPTER 31 OF THE DANE COUNTY CODE OF ORDINANCES,
REGARDING ENFORCEMENT OF FAIR HOUSING COMPLAINTS**

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Section 31.02 is amended to read as follows:

31.02 INTENT. It is the intent of this chapter to render unlawful discrimination in housing. It is the declared policy of the County of Dane that all persons shall have an equal opportunity for housing regardless of race, gender, age, religion, color, national origin, ancestry, marital status, domestic partnership status, family status, mental illness, disability, physical appearance, lawful source of income, student status, arrest or conviction record, sexual orientation, military discharge status, political beliefs, status as a victim of domestic abuse, or the fact that a person declines to disclose his or her Social Security Number when such disclosure is not compelled by state or federal law, or the person is associated with a tenant union. This chapter shall be deemed an exercise of the police powers of the County of Dane for the protection of the welfare, health, peace, dignity and human rights of the people of this county, and as a fulfillment of the legislative directive of sec. 66.1011, Wis. Stats.

ARTICLE 3. Section 31.03 is repealed and recreated to read as follows:

31.03 DEFINITIONS. As used in this chapter, the following words and phrases have the meanings indicated, unless the context clearly requires otherwise:

(1) *Arrest record* includes, but is not limited to, information indicating that a person has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any felony, misdemeanor or other offense pursuant to any law enforcement or military authority.

(2) *Conviction record* includes, but is not limited to, information indicating that a person has been convicted of a felony, misdemeanor or other offense, placed on probation, fined, imprisoned or paroled pursuant to any law enforcement or military authority. In addition, *conviction record* relating to discrimination in housing, shall also include information indicating that a person has been convicted of a civil ordinance violation (forfeiture).

(3) *Disability* means any physical or mental impairment as defined in s. 106.50(1m)(g), Wis. Stats., or developmental disability as defined in sec. 51.01(5)(a), Wis. Stats., or federal law, and includes the presence of service animals as defined by s. 106.52(1)(fm), Wis. Stats.

(4) *Discriminate* and *discrimination* mean to segregate, separate, exclude or treat any person or class of persons unequally because of race, gender, age, religion, color, national origin, ancestry, marital status, domestic partnership status, family status, mental illness, physical condition, appearance, lawful source of income, including receipt of rental assistance under 24 Code of Federal Regulations Subtitle B, Chapter VIII [the "Section 8" housing program], student status, arrest or conviction record, sexual orientation, military discharge status, political beliefs, status as a victim of domestic abuse as defined in sec. 813.12(1)(am), Wis. Stats., failure to disclose Social Security Number, and association with or formation of a tenant union in apartments or mobile home parks or communities.

(5) *Domestic partnership status* means being in a relationship with an adult of the same or opposite sex with whom the person seeking to rent or purchase housing is living with in a non-marital committed relationship and with whom he or she intends to share a common residence and responsibility for each other's common welfare. Registration of a Declaration of Domestic

Partnership in conformance with Chapter 60, Dane Co. Ords., or other similar domestic registry is *prima facie* evidence of domestic partnership status.

(6) *Family status* means any of the following conditions that apply to a person seeking to rent or purchase housing or to a member of the person's household regardless of the person's marital status:

(a) A person is pregnant.

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

(c) A person's household includes one or more minor or adult relatives.

(d) 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.

(e) 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.

(7) *Gender identity* has the meaning set forth in section 19.04(7)(a).

(8) *Housing* means any improved property, including any mobile home as defined in sec. 66.0435(1)(d), Wis. Stats., which is used or occupied, or is intended, arranged or designed to be used or occupied, as a home, apartment or residence.

(9) *Marital status* means being married, divorced, widowed, separated, single or a cohabitant.

(10) *Military discharge status* means the type of discharge from military service, whether honorable, general, dishonorable, administrative or otherwise, held by a former member of the United States military. For purposes of this ordinance, it also includes a current member's active duty status.

(11) *Physical appearance* means the outward appearance of any person irrespective of gender, with regard to weight, height, facial features or other aspects of appearance which are beyond the person's control and which are not based on recognized religious practices.

(12) *Political beliefs* means an individual's opinion, manifested in speech or association, concerning the social, economic and governmental structure of society and its institutions. This ordinance shall cover all political beliefs, the consideration of which is not preempted by state or federal law.

(13) *Religion* includes all aspects of religious observance and practice, as well as beliefs.

(14) *Relative* means a parent, grandparent, great grandparent, stepparent, step grandparent, brother, sister, child, stepchild, grandchild, step grandchild, great grandchild, first cousin, second cousin, nephew, niece, uncle, aunt, stepbrother, stepsister, half brother or half sister or any other person related by blood, marriage or adoption.

(15) *Sexual orientation* includes homosexuality, heterosexuality, bisexuality and gender identity by preference or practice.

(16) *Student status* means having or not having standing as an enrollee of a public or private high school, college, university, technical college, accredited trade school or apprenticeship program.

ARTICLE 4. Section 31.10(7) is amended to read as follows:

31.10 DISCRIMINATION PROHIBITED. It shall be unlawful for any person to discriminate:

(7) by deliberately and willfully submitting, filing, issuing, publishing, requiring the use of or otherwise utilizing any document evidencing a transfer of real estate interests which contains a provision, covenant or restriction that discriminates.

ARTICLE 5. Section 31.11(1)(e) is amended to read as follows:

31.11 EXCEPTIONS. (1) Nothing in this chapter shall prohibit discrimination:

(e) on the basis of conviction record, if less than two years have passed since the applicant or member of applicant's household completed their sentence, was released from incarceration, completed probation or parole, completed electronic monitoring, or paid any outstanding fines or forfeitures related to the offense, and the circumstances of the offense bear a substantial relationship to the tenancy. The phrase "circumstances of the offense(s) bear a substantial relationship to the tenancy" means the offense is such that, given the nature of the housing, a reasonable person would have a justifiable fear for the safety of landlord or tenant property or for the safety of other residents or employees. The two year limitation on this exception shall not apply to a conviction for the crime of arson, including a conviction of violation of Wis. Stat. Ss 943.02 to 943.06; or

ARTICLE 6. Section 31.11(3) is created to read as follows:

(3) A person who has received written notice from a municipality that a drug nuisance under s. 823.113, Wis. Stats., or a chronic nuisance as defined by its municipal ordinance, exists on property for which the person is responsible as owner may take action to eliminate the nuisance within the provision of said municipal ordinance including, but not limited to, eviction of residents, provided such action is not a subterfuge to evade the provisions of this ordinance.

ARTICLE 7. Section 31.15 is created to read as follows:

31.15 REQUIRING DISCLOSURE OF SOCIAL SECURITY NUMBER PROHIBITED. (1) It shall be unlawful for any person engaged in the sale or rental of housing to require a person to disclose his or her social security number when such disclosure is not required by state or federal law.

(2) If a rental or sale application does request a social security number, the application shall state that such disclosure is voluntary and that the landlord may not deny the applicant housing on the basis of the applicant's decision to withhold his or her social security number.

ARTICLE 8. Section 31.20 is amended to read as follows:

31.20 ENFORCEMENT. The provisions of this chapter shall be enforced by the corporation counsel, as follows:

(1) The corporation counsel may receive and investigate a complaint alleging a violation of this chapter, provided that a written and verified statement of complaint is filed no more than one year after the alleged discrimination occurred.

(2) Within 30 days after receipt of a verified complaint, the corporation counsel shall make a determination as to whether the complaint states a claim under this chapter.

(3)(a) If the corporation counsel believes that any discrimination has been or is being committed in violation of this chapter, he or she shall endeavor to eliminate such discrimination by conciliation and persuasion. If the corporation counsel determines that the complaint states a claim under this chapter and discrimination will not be eliminated, after consultation with the complainant, the corporation counsel shall:

1. refer the complaint to an appropriate agency to conduct an investigation consistent with the provisions of s. 106.50(6)(c), Wis. Stats. If a determination of probable cause is made, the appropriate agency shall issue a charge and conduct a hearing pursuant to the provisions of s. 106.50(6)(f), Wis. Stats., unless the complainant, respondent or other aggrieved party elects to have the claim decided in a civil action, as set forth in ss. 106.50(6)(c)2m. and (6m); or

2. commence a civil action in the name of Dane County and proceed in the Circuit Court for Dane County for the enforcement of this chapter through injunctive relief, damages and penalties as provided in section 31.90.

(b) If the corporation counsel determines that the complaint does not state a claim under this chapter, the complainant shall be notified in writing and advised of his or her rights to pursue a claim under state law.

(4) Whenever the corporation counsel has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this chapter, or that any group of persons has been denied any of the rights granted by this chapter, he or she may bring a civil action in the Circuit Court of Dane County, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice of denial of rights.

(5) Upon request, the corporation counsel shall report on all actions taken under this chapter to the public protection and judiciary committee.

ARTICLE 9. Section 31.90 is repealed and recreated to read as follows:

31.90 DAMAGES AND PENALTIES. (1) If an officer adjudicating a claim under s. 31.20(3)(a) finds that the respondent has engaged in or is about to engage in an act prohibited by this chapter, the hearing officer shall promptly issue an order for such relief as may be appropriate, which may include economic and non-economic damages suffered by the aggrieved person, regardless of whether he or she intervened in the action, and injunctive or other equitable relief. The officer may not order punitive damages.

(2) In addition to any damages ordered under sub. (1), the officer may assess a forfeiture as follows:

(a) Any person who violates any provision of this chapter or any lawful order issued under this chapter shall, for the first violation, forfeit an amount not to exceed \$5,000.

(b) Any person adjudged to have violated any provision of this chapter for the second time within a five year period shall, for that second violation committed within the same five year period, forfeit an amount not to exceed \$10,000.

(c) Any person adjudged to have violated any provision of this chapter for a third or subsequent time within a five year period shall, for the third and subsequent violations committed within the same five year period, forfeit an amount not to exceed \$50,000.

(3) The officer may allow a prevailing complainant, including the county, reasonable attorneys fees and costs.

(4) Within 30 days after service upon all parties of an order or determination of the officer, any aggrieved party may appeal the order or the determination to the Dane County Circuit Court by filing a petition for review.

(5) Notwithstanding any other provision herein, any person who violates the provisions of section 31.24 of this ordinance shall forfeit not less than \$50 nor more than \$200.