

Ordinance No. 10-08

To repeal and recreate Chapter 62, Article II of the Municipal Code of the City of Racine, Wisconsin, being an Article of the Municipal Code of the City of Racine relating to discrimination.

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

Part 1:

ARTICLE II. DISCRIMINATION

Sec. 62-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accommodation means and includes any room, apartment, house, building, or structure, any part of which is used for human habitation on a temporary or permanent basis.

Aggrieved person means a person who claims to have been injured by discrimination or believes that he or she will be injured by discrimination that is about to occur.

Commission means the Affirmative Action and Human Rights Commission.

Commissioner means a member of the Affirmative Action and Human Rights Commission.

Complainant means any person who files a complaint with the commission pursuant to the provisions of this article.

Department means the City of Racine Fair Housing Department.

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

Discriminate, discrimination, and discriminating refer to any type of act or refusal to act prohibited by this article, which is based to any degree on a consideration

by the actor of the age, sex, race, color, veteran's status, disabled veteran's status, religion, disability, national origin, marital status, sexual orientation, familial status, or economic status of any other person.

Economic status means the lawful source of income of a person.

Employer means and includes every person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district, and other public or quasi-public corporations as well as any agent, manager, representative, or other person having control or custody of any employment, place of employment, or of any employee.

Familial 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, 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.

Hearing means a hearing under the jurisdiction of the commission, except where otherwise indicated.

Housing means and includes any improved property, or any portion thereof, including a mobile home, manufactured home, 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.

Interested person means an adult relative or friend of a person protected under this ordinance, or an official or representative of a private agency, corporation, or

association concerned with the welfare of a person protected under this ordinance.

No probable cause complaint means a complaint, the insufficiency of which is so manifest on a bare inspection of the complaint, that its character may be determined without argument or research.

Owner means and includes the lessee, sublessee, assignee, managing agent, or other person having the right of ownership or possession, or the right to sell, rent, or lease any housing in the city.

Person means and includes any individual, partnership, labor or other association, corporation, legal representative, receiver, trustee, trustee in bankruptcy, or other fiduciary, or the lessee, proprietor, manager, employee, or any other agent of any such person.

Probable cause means reasonable grounds to believe that a violation of this article, not exempted herein, may have occurred or may be occurring.

Respondent means any person who, according to the allegations contained in any complaint filed with the commission, has violated any discriminatory practice prohibited by this article and has been named in the complaint as a respondent.

Veteran means a person serving in the active or reserve Army, Navy, Marine Corps, Coast Guard, or Air Force, or National Guard or Air National Guard, or who so served and who was discharged or released therefrom under conditions other than dishonorable.

Sec. 62-27. Declaration of policy.

(a) It is hereby declared to be the public policy of the city to assure equal opportunities and fair housing to all citizens of the city, regardless of age, sex, race, color, veteran's status, disabled veteran's status, religion, disability or disabilities, national origin, marital status, sexual orientation, familial status, lawful source of income, or economic status, and to that end to prohibit discrimination based on these factors.

(b) Inasmuch as the prohibition of discriminatory practices is not sufficient to effectuate the principle of equal employment without affirmative and direct action, the city adopts this article designed to increase the representation of under-represented groups in all departments, job classifications, and salary categories in city employment. The city, in developing the affirmative action plan, shall require an affirmative action plan from vendors, contractors, and firms with which it does business of \$10,000.00 or more per contract.

(c) The fair housing provisions of this article shall be deemed an extension of the exercise of the police powers of this state for the protection of the welfare, health, peace, dignity, and human rights of the people of the city.

Sec. 62-28. Affirmative action officer.

There is hereby created the position of affirmative action officer, who shall have responsibility and authority for the development and implementation of the city's affirmative action plan. The affirmative action officer shall have a background that demonstrates a commitment to the policy of this article. The affirmative action officer shall be appointed by the mayor subject to the confirmation of the common council, shall be under the supervision of the human resources manager, and shall be directly responsible to the mayor and common council. Prior to such appointment, the mayor shall seek recommendations as to the suitable candidates for this position from the affirmative action and human rights commission. The appointment of the affirmative action officer shall be made by the mayor within 90 days after receiving such recommendations from the affirmative action and human rights commission.

Sec. 62-29. Affirmative action and human rights commission.

(a) The mayor, subject to confirmation by the common council, shall appoint a commission on affirmative action and human rights consisting of nine members, two of whom shall be aldermen, and one of whom shall be an attorney. Members shall be city residents, shall be appointed from the entire city, and at no time shall the total of women and ethnic or racial minorities constitute less than a majority of the commission. Commissioners shall receive no compensation for their services. The affirmative action officer is an ex officio member of the commission.

(b) The members of the commission shall be appointed by the mayor, subject to confirmation of the common council. Vacancies shall be filled in the same manner. All appointments shall be made on the first Tuesday of May and shall be for a term of three years. The term of office shall begin on appointment, confirmation, and qualification of a successor. The aldermen members of the commission shall be members thereof only as long as they continue to hold office as aldermen. Every person appointed as a member of the commission shall take and file an official oath.

(c) Each year within 30 days after the time designated for the beginning of terms, the members of the commission shall organize by the

election, from among their number, of a president and a secretary and such other officers as they may deem necessary.

(d) Five members of the commission shall constitute a quorum on all matters requiring consideration by the entire commission.

Sec. 62-30. Affirmative action and human rights commission -- Powers and duties.

The commission shall have the following powers and duties:

- (a) To annually review, approve and recommend the affirmative action goals and timetables as proposed by the affirmative action officer.
- (b) To advise affected and/or other under-represented groups of their rights under the affirmative action plan.
- (c) To disseminate information and to attempt by means of discussion as well as other proper means to educate the people of the city to a greater understanding, appreciation and practice of equal rights, and affirmative action to the end that the city will be a better place in which to live.
- (d) To adopt such rules and regulations as may be necessary to carry out the purposes and provisions of this article. Such rules and regulations shall be filed with the city clerk and a copy thereof mailed to each member of the common council.
- (e) To develop and review the contract compliance requirements of the city and to develop a policy with respect to vendors and contractors.
- (f) To make specific recommendations to the common council so as to bring all appropriate ordinances into conformity with the policies of this article, if necessary.
- (g) The commission shall be an advisory body to the mayor and the common council and may study and investigate problems relating to discrimination and denial of rights by reason of age, sex, race, veteran's status, disabled veteran's status, creed, color, national origin, disability or disabilities, marital status, familial status, sexual orientation, or economic status, and shall make such recommendations to the mayor and common council as it deems necessary to eliminate problems of discrimination in the city. The commission shall receive and investigate complaints of and initiate its own investigations of any practice of discrimination against any person within the city because of age, sex, race, disabled veteran's status,

creed, color, national origin, disability or disabilities, marital status, sexual orientation, familial status or economic status.

(h) To receive complaints alleging violation of this article arising from bona fide transactions and to attempt to eliminate or remedy any violation by means of conciliation, education or other means. In those cases where the commission obtains compliance with this article or the commission finds that the complaint is without foundation, no public disclosure shall be made by the commission of the names of the persons named in the complaint, unless requested by the respondent.

(i) To compel the attendance of witnesses and the production of all papers and records by subpoena, when necessary, for the purpose of its hearings.

Sec. 62-31. Financing of commission.

The common council shall provide in the annual city budget for the amount that it deems necessary to carry on the activities of the commission for the ensuing year. The commission shall be subject to the published ordinances of the city and shall have no authority to expend funds other than those appropriated or approved by the common council. All funds received by the commission shall be paid into the general fund of the city. All expenditures made by the commission shall be made in the same manner as other municipal expenditures and in accordance with the laws of the state and this Code.

Sec. 62-32. Other commission personnel.

The commission may employ such staff as may be authorized by the common council. All personnel so authorized shall be recruited and employed under the personnel classification set up by the human resources manager with the approval of the mayor and common council. The commission shall have the right to recommend to the human resources manager individuals for filling the authorized staff positions.

Sec. 62-33. Affirmative action plan--Preparation and scope.

(a) Within 90 days of his appointment, the affirmative action officer in concert with the head of each department, board, commission, or committee shall develop a written affirmative action plan. The plan, to be updated annually, is to be developed pursuant to the federal guidelines, as amended from time to time, which are hereby incorporated by reference, and is to further reflect reasonable goals and timetables for achieving

substantially increased employment of affected and/or other under-represented groups. In addition to the above guidelines, the plan should include, but not be limited to, the following employment and career development information concerning the department:

- (1) The available job slots.
- (2) Recruitment policies.
- (3) Selection and placement procedure.
- (4) Testing programs.
- (5) Training programs.
- (6) Promotion policies and procedures.
- (7) Transfer policies.
- (8) Compensation programs.
- (9) Available facilities.
- (10) Layoff and recall policies.
- (11) Procedure for disciplinary action.
- (12) Harassment-free work atmosphere for affected and/or other under-represented groups.

(b) In preparation of the affirmative action plan, the affirmative action officer shall have the full cooperation of the department head, board, commission, or committee and access to all department policies and procedures, administrative rules and regulations, personnel files, and other documents, or information relating to the employment, training, promotion, transfer, termination or discipline of personnel in the city employ. However, no records are to be used in any manner that would divulge the identity of the parties involved. Provided, further, that if the employee or applicant was assured by the city that any of the aforementioned documents were to be held in strict confidence, the permission of the applicant or employee shall be obtained prior to the release of these documents to the affirmative action officer.

Sec. 62-34. Same--Adoption.

(a) The affirmative action officer shall incorporate the goals and timetables of the individual departments into the city's affirmative action plan, which shall be submitted to the commission. This plan shall reflect the reasonable goals and timetables for achieving equal employment opportunities and requirements for affected and/or other under-represented groups at all levels and/or job classifications.

(b) Upon approval by the affirmative action commission, the plan shall be submitted to the mayor and common council for approval and adoption. Once adopted, the plan shall be distributed to all department heads, who shall adhere to the goals, timetables and procedures prescribed therein.

Sec. 62-35. Same--Implementation.

Implementation of the city's affirmative action plan shall include but not be limited to the following:

- (a) Recruitment. Every effort shall be made to recruit applicants from under-utilized categories to provide employment lists of qualified candidates that will facilitate the implementation of departmental and affirmative action goals. The human resources manager, with the assistance of the affirmative action officer, shall expand the recruitment programs to include but not be limited to the following:
 - (1) Inform members of the affected and/or other under-represented groups of the affirmative action plan and seek their support in attracting applicants.
 - (2) Include information about the affirmative action plan on all job and contract announcements.
 - (3) Prepare a specific brochure summarizing the affirmative action plan and disseminate it throughout the community.
 - (4) Work with appropriate community resources to develop techniques, models and strategies that will maximize the recruitment of affected and/or other under-represented groups.
- (b) Testing, selection and placement policies.
 - (1) The human resources manager, in conjunction with the affirmative action officer, shall review all testing, selection and placement policies of the city to determine that they are nondiscriminatory and free of cultural bias, and develop other evaluation methods that are task related and that are in accord with the guidelines promulgated by the Federal Equal Employment Opportunity Commission.
 - (2) The human resources manager, in conjunction with the affirmative action officer, shall develop procedures to establish viable career ladders or bridges between entry level, nonmanagement, and management positions for all city employees with specific emphasis on affected and/or other under-represented groups.
- (c) Education and training programs. The affirmative action officer shall, with the cooperation of the human resources manager of the city,

develop education and training programs designed to develop the job-related knowledge and skills essential to compensate for past education and opportunity deficiencies. These programs shall be designed to develop each employee's fullest potential and to upgrade the employee's position in the city employ. The affirmative action officer shall work with the affirmative action commission to develop and provide all employees with relevant training to increase their awareness in the areas of cultural perception and human relations.

(d) Analysis of job turnover. The affirmative action officer shall maintain statistics and institute research to identify the reasons for job turnover among all city employees which may have affirmative action ramifications.

Sec. 62-36. Accountability and reports.

(a) The affirmative action officer shall be responsible for the successful implementation and coordination of the affirmative action plan. In turn, each department head shall be accountable to the affirmative action officer for the successful implementation of the affirmative action plan.

(b) The affirmative action officer shall at least quarterly file a written progress report with the affirmative action commission, the mayor and common council indicating the progress towards achieving the affirmative action goals. The report shall include but not be limited to the following:

- (1) A summary of the affirmative action goals as well as any special projects tied to this plan.
- (2) Totals of all persons hired, promoted, transferred, demoted, suspended, terminated, interviewed, and/or rejected, indicating affected and/or under-represented groups. Waivers of hiring priority and reasons therefor shall also be provided.
- (3) A description of the recruitment and training programs instituted to achieve the objectives of the affirmative action plan.
- (4) A summary of survival counseling and other supportive programs provided to resolve and prevent problems.
- (5) A review of contract compliance status.
- (6) A report listing the number of complaints, the category of discrimination and action taken in investigating complaints.

Sec. 62-37. Review of regulations.

This article is to be reviewed by the city attorney and the commission and reports filed with the common council six months from the date of the adoption of the affirmative action plan.

ARTICLE IIA. DISCRIMINATORY PRACTICES

Sec. 62-38. Discriminatory practices prohibited.

It shall be a prohibited discriminatory practice for any person:

(a) To refuse to furnish goods or services to any person when such refusal is based on a consideration of the age, sex, race, color, veteran's status, disabled veteran's status, religion, disability or disabilities, national origin, marital status, sexual orientation, familial status, lawful source of income, or economic status of the person refused.

(b) To hire or promote, discharge or make any other personnel transaction when such practice is based on a consideration of the age, sex, race, color, veteran's status, disabled veteran's status, religion, disability or disabilities, national origin, marital status, sexual orientation, familial status, lawful source of income, or economic status of the person refused.

(c) To do or refuse to do any act which affects the purpose of any activity prohibited by this article.

Sec. 62-39. Complaints.

(a) Form and content. Any complaint charging a violation of any provision of Article IIA shall be in writing and shall be verified and signed by the complainant. Such complaints may be initiated by the aggrieved person as complainant or by an interested person, who shall mail or hand-deliver the complaint to the commission, or dictate it to a commissioner, who shall thereupon reduce the complaint to writing and the complainant shall execute and verify the complaint. The department is authorized and directed to accept complaints on behalf of the commission. All such complaints shall contain the following:

(1) The name and address of the complainant, and the name and address of the aggrieved person if different from the complainant;

- (2) The name and address of the respondent or respondents;
 - (3) A statement setting forth the particulars of the alleged violation or discriminatory practice; and
 - (4) The date or dates of the alleged violation or discriminatory practice.
- (b) Where filed. Complaints shall be filed with the commission by the complainant or his duly authorized agent and may be filed in person or by mail. Complaints received by department personnel for filing shall be considered properly filed.
- (c) When filed. Complaints shall be filed no later than one year after the complainant knew or should reasonably have known the alleged act or acts occurred or terminated. The Commission, on the Commission's own initiative, may also file such a complaint. The Commission may also investigate housing practices to determine whether a complaint should be brought under this section.
- (d) Notice to respondent. Upon the filing of a complaint, the commission shall serve a copy thereof, by certified mail with return receipt requested, upon the respondent within 20 days of such filing.
- (e) Notice to aggrieved person. Upon the filing of a complaint, if the complainant is not the aggrieved person, the commission shall serve a copy thereof, by certified mail with return receipt requested, upon the aggrieved person within 20 days of such filing.
- (f) Amendment and withdrawal. A complaint may be amended or withdrawn by the complainant at any time with and subject to approval of the commission and under such terms as the commission shall direct. If the aggrieved person is not the complainant, the aggrieved person may seek to withdraw the complaint at any time with and subject to approval of the commission and under such terms as the commission shall direct.

Sec. 62-40. Enforcement procedures.

Except as set forth in Sec. 62-41, the commission shall use the following procedures in acting on complaints of discrimination under article IIA:

- (a) The commission shall not accept any complaint filed more than one year after the alleged discrimination occurred or terminated. The commission shall not investigate any complaint unless it is in writing and

verified by the complainant, and a copy of the complaint sent to the person or persons complained of, referred to in this article as "respondent," by certified mail.

(b) Reference to panel. If such verified complaint alleges facts sufficient to constitute a violation of the provisions of this article, the chairman of the commission shall designate a panel of three commissioners to make prompt investigation thereof.

(c) If the investigative panel, by affirmative vote of the three members thereof, determines after preliminary investigation that there is probable cause for believing the allegations of the complaint, the commission shall immediately endeavor to eliminate the alleged violation by conference, conciliation or persuasion. In case of failure to so eliminate the discrimination, the commission shall issue a written notice of hearing to all parties, specifying the nature of the discrimination which appears to have been committed, and requiring the respondent to answer the complaint in writing within ten days after receipt of the notice of hearing and to appear at the hearing on the appointed date. The notice shall specify a time of hearing not less than 30 days after service of the notice for hearing. The testimony at the hearing shall be recorded. The hearing shall be held before an adjudicating panel appointed by the chairman, composed of three commissioners, and shall be public. The hearing, at the direction of the chairman, may be held before the full commission. All testimony presented at a hearing shall be under oath and subject to cross examination by the respondent and/or the panel members. A respondent may be represented by counsel.

(d) If, after the hearing, the panel finds that the respondent has engaged in or is engaging in a discriminatory practice or violation of this article, it shall make and submit to the commission written findings of fact and conclusions thereon, and shall recommend such action to be taken by the respondent and, where necessary, by the complainant as will effect the purposes of this article by eliminating the discriminatory practice of the violation. A copy of such findings, conclusions and recommended action, together with a summary of the findings of fact, shall be mailed to the last known address of the complainant and the respondent by certified mail.

(e) Appeals to commission of panel decision.

(1) If, within ten days following the certified mailing of the panel's decision, the commission does not receive notice of appeal, the findings, conclusions and orders of the panel shall become findings, conclusions and orders of the full commission.

- (2) If, within ten days following the certified mailing of the panel's decision, the complainant or respondent serves notice of appeal, such appeal may be had to the full commission. Such appeal shall be on the panel's record. The commission shall have the power to affirm, reverse or modify the determination of the hearing panel.
- (f) Transfer of proceedings. At any time after a finding of probable cause, the commission may transfer the proceedings from the three-member panel to the full commission.
- (g) The commission shall monitor compliance with its conciliation agreements and orders in such manner as it shall determine appropriate.
- (h) Whenever, in the judgment of the commission, judicial enforcement of the article is necessary, the commission shall, in writing, request the city attorney to enforce this article in the name of the city. Upon receipt of such request, the city attorney shall have the power to seek enforcement of this article in a court of competent jurisdiction.
- (i) All orders of the commission shall be final administrative determinations and shall be subject to review as provided by law.
- (j) An attorney from the city attorney's office shall attend hearings held under this subarticle to act in the capacity as legal advisor to the adjudicating panel or commission in all cases not involving a complaint against the city. This role shall be solely advisory in nature and no voting rights shall attach.

Sec. 62-41. Proceedings on complaints of discrimination filed against the city.

The commission shall use the following procedures in acting on complaints of discrimination filed against the city:

- (a) Upon receipt of a written, verified complaint naming the city as respondent, a copy of such complaint shall be served on the city attorney.
- (b) Reference to panel. If such verified complaint alleges facts sufficient to constitute a violation of the provisions of this article, the chairman of the commission shall designate a panel of three commissioners to make prompt investigation thereof.
- (c) If the investigative panel, by affirmative vote of the three members thereof, determines after preliminary investigation that there is probable cause to believe the allegations of the complaint, the commission shall immediately endeavor to eliminate the alleged violation by conference,

conciliation or persuasion. In case of failure to so eliminate the discrimination, the commission shall report its findings and recommendations to the mayor or common council.

(d) The mayor or common council shall further investigate the matter if needed, and shall approve or disapprove the recommendations of the commission, in whole or in part. The complainant shall be notified of such action.

(e) No further action shall be taken on the complaint by the commission. A complainant may at any time pursue any other available legal or equitable remedies.

Sec. 62-42. Penalty for violation of Article IIA.

Unless otherwise specified, any person adjudged to have committed a violation of this article shall forfeit that penalty as provided in section 1-15, plus the costs of prosecution. Such forfeiture shall be assessed on a daily basis for each and every day such violation shall continue without limit.

ARTICLE IIB. FAIR HOUSING

Sec. 62-43. Discriminatory practices in housing prohibited.

It shall be a prohibited discriminatory practice for any person:

(a) By threats, intimidations, coercion, extortion, or conspiracy, to induce or attempt to induce any person owning an interest in any housing or accommodation in the city to sell, rent or lease, or not to sell, rent or lease, or contract to construct such housing or accommodation to any person because of such person's age, sex, race, color, veteran's status, disabled veteran's status, religion, disability or disabilities, national origin, marital status, sexual orientation, familial status, lawful source of income, or economic status.

(b) To refuse or offer or negotiate for the transfer, sale, rental or lease, or contract to construct, or to refuse to transfer, sell, rent or lease, or contract to construct, or otherwise to deny or withhold from any person any housing because of age, sex, race, color, veteran's status, disabled veteran's status, religion, disability or disabilities, national origin, marital

status, sexual orientation, familial status, lawful source of income, or economic status.

(c) To discriminate against any person in the terms, conditions or provisions pertaining to the transfer, sale, rental or lease, or contract to construct of any housing, or in the furnishing of facilities or services in connection therewith, or in any other manner.

(d) To print, broadcast or publish, or cause to be printed, broadcasted or published, any notice or advertisement relating to the transfer, sale, rental or lease of any housing which expresses limitation specification or discrimination as to race, color, veteran's status, disabled veteran's status, religion, disability or disabilities, national origin, sexual orientation, familial status, lawful source of income, or economic status.

(e) To refuse to lend money or security, guarantee any loan, accept any mortgage, to exact different or more stringent price, terms, services, or conditions for the sale, lease, financing, or rental of housing, or in any other manner make available any other funds or resources for the construction, acquisition, purchase, rehabilitation, repair or maintenance of any housing or housing accommodation when such refusal is based on a consideration of the age, sex, race, color, veteran's status, disabled veteran's status, religion, disability or disabilities, national origin, marital status, sexual orientation, familial status, lawful source of income, or economic status of the person refused.

(f) Who is engaged in the business of insuring against hazards, to refusing to enter into, or to exact different terms, conditions, or privileges with respect to, a contract of insurance against hazards to a dwelling.

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

(h) 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 that housing after it is sold, rented or made available or a disability of a person associated with that person.

(i) 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 reasonable 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.

(j) 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.

(k) If an individual's vision, hearing or mobility is impaired, 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 an individual as a condition of continued residence in housing or engage in the harassment of the individual because he or she keeps an animal that is specially trained to lead or assist the individual with impaired vision, hearing or mobility if all of the following apply:

(1) Upon request, the individual shows to the lessor, seller or representative of the condominium association credentials issued by a school recognized by the department as accredited to train animals for individuals with impaired vision, hearing or mobility.

(2) The individual accepts liability for sanitation with respect to, and damage to the premises caused by, the animal.

This subsection does not apply in the case of the rental of owner-occupied housing if the owner or a member of his or her immediate family occupying the housing possesses and, upon request, presents to the individual a certificate signed by a physician which states that the owner or family member is allergic to the type of animal the individual possesses.

(l) No person may design or construct covered multifamily housing, as defined in Wis. Stats. § 101.132 (1) (d), unless it meets the standards

specified in Wis. Stats. § 101.132 (2) (a) 1. to 4. In addition, no person may remodel, as defined in Wis. Stats. § 101.132 (1) (h), housing with 3 or more dwelling units unless the remodeled housing meets the standards specified in Wis. Stats. § 101.132 (2) (a) 1. to 4. as required under Wis. Stats. § 101.132 (2) (b) 1., 2. or 3., whichever is applicable.

(m) To do or refuse to do any act which affects the purpose of any activity prohibited by this article.

Sec. 62-44. Exemption for housing the elderly.

Housing for older persons shall be exempt from the prohibition against age and familial status discrimination under this article if:

(a) The Housing and Urban Development (HUD) Secretary or the Wisconsin Department of Workforce Development (DWD) Secretary has determined that such housing is specifically designed for and occupied by elderly persons under a federal, state or local government program;

(b) Such housing is intended for, and solely occupied by, persons who are 62 years of age or older; or

(c) Intended and operated for occupancy by persons 55 years of age or older, and

(1) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(2) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(3) the housing facility or community complies with rules issued by HUD or DWD for verification of occupancy, which shall provide for verification by reliable surveys and affidavits and include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of subparagraph (2). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(d) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(1) persons residing in such housing as of the date of enactment of this ordinance who do not meet the age requirements of

subsections (b) or (c), provided that new occupants of such housing meet the age requirements of sections (b) or (c); or

(2) unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subsections (b) or (c).

Sec. 62-45. Information allowed.

Nothing in this article shall be deemed to prohibit an owner or employer, or his agent, from requiring that any person who seeks to buy, rent, or lease any housing supply information concerning his prior residence, family, marital, financial, and business status.

Sec. 62-46. Person's ability to pay, past history, consideration allowed.

Nothing in this article shall be deemed to prohibit an owner or owner's agent from refusing to sell, rent, or lease any housing to any person on the basis of such person's treatment of any property formerly occupied by such person or on the basis of such person's record in paying rent or other obligations when due or such person's ability to pay.

Sec. 62-47. Complaints.

(a) Form and content. Any complaint charging a violation of any provision of Article IIB shall be in writing and shall be verified and signed by the complainant. Such complaints may be initiated by the aggrieved person as complainant or by an interested person, who shall mail or hand-deliver the complaint to the commission, or dictate it to a commissioner, who shall thereupon reduce the complaint to writing and the complainant shall execute and verify the complaint. The department is authorized and directed to accept complaints on behalf of the commission. All such complaints shall contain the following:

(1) The name and address of the complainant, and the name and address of the aggrieved person if different from the complainant;

(2) The name and address of the respondent or respondents;

(3) A statement setting forth the particulars of the alleged violation or discriminatory practice; and

- (4) The date or dates of the alleged violation or discriminatory practice.
- (b) Where filed. Complaints shall be filed with the commission by the complainant or his duly authorized agent and may be filed in person or by mail. Complaints received by department personnel for filing shall be considered properly filed.
- (c) When filed. Complaints shall be filed no later than one year after the complainant knew or should reasonably have known the alleged act or acts occurred or terminated. The Commission, on the Commission's own initiative, may also file such a complaint. The Commission may also investigate housing practices to determine whether a complaint should be brought under this section.
- (d) Amendment and withdrawal. A complaint may be amended or withdrawn by the complainant at any time with and subject to approval of the commission and under such terms as the commission shall direct. If the aggrieved person is not the complainant, the aggrieved person may seek to withdraw the complaint at any time with and subject to approval of the commission and under such terms as the commission shall direct.
- (e) The requirement that notices be sent by certified mail does not preclude notice also being given by other methods, including personal service.

Sec. 62-48. Enforcement procedures.

The commission shall use the following procedures in acting on complaints of discrimination under Article IIB:

- (a) The department shall, within three days of receipt of a complaint, serve notice on the complainant, and on the aggrieved person if different from the complainant, acknowledging the filing of the complaint and advising of the time limits and choice of forums provided under this subsection and the right to bring a private civil action under sub. (m).
- (b) Upon the filing of an initial, amended, final, or supplemental complaint, the department shall, within five days, serve a copy of the complaint upon the respondent, except where testing may be conducted. The initial complaint shall be served 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.

(c) The department shall conduct an initial investigation of the complaint. The department may test as part of this investigation for the purpose of establishing violations of this chapter. The results of such initial investigation shall be reported to the commission no later than at its first regularly scheduled meeting after 20 days after the date of service of the complaint upon the respondent. The commission may dismiss a no probable cause complaint at such meeting or thereafter.

(d) The commission 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.

(e) The commission and its duly authorized agents may hold hearings, subpoena witnesses, take testimony, and make investigations as provided in this subsection. However, under no circumstances may an individual member of the commission undertake an investigation independent of any commission or department investigation. The department, with the approval of the commission, shall develop and implement an investigation manual for use in conducting investigations.

(f) Subcommittee

(1) The commission shall appoint a subcommittee of three commissioners to investigate all complaints that allege a fair housing violation and that are timely filed. The subcommittee 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, or an aggrieved person, that is not alleged in the complaint, the commission or the subcommittee may advise the complainant that the complaint should be amended. If the complaint is amended, the subcommittee shall also investigate the allegations of the amended complaint.

(2) At the conclusion of the investigation of the allegations, the subcommittee 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 subcommittee shall consider whether the facts concerning the alleged discrimination are sufficient to warrant the initiation of a civil action. If the subcommittee determines that probable cause exists, the subcommittee shall immediately issue a charge on behalf of the aggrieved person and refer the charge to the city attorney. If the city attorney concurs in the subcommittee's determination of probable cause, the city attorney shall represent the aggrieved person at the hearing under par. (h) or, if an election is made under sub. (f)(3)., shall commence a civil action in the name of the state on behalf of the aggrieved person under par. (m).

(3) 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 par. (m) in lieu of a hearing under par. (h). 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 commission and to all other complainants and respondents to whom the charge relates. The commission shall notify the aggrieved persons that an election is made.

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

(5) If the subcommittee 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 commission for a hearing on the issue under par. (i). Service of the determination shall be made by certified mail, return receipt requested.

(g) Temporary Judicial Relief or Conciliation.

(1) At any time after a complaint is filed alleging fair housing discrimination, the commission may request the city attorney to file a petition in the circuit court for the county in which the act of

discrimination allegedly occurred or for the county in which a 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 commission's request, the city attorney shall promptly file the petition if the city attorney concurs.

(2) Upon the filing of a complaint alleging fair housing discrimination, the department may endeavor to eliminate the discrimination by conference, conciliation and persuasion. The department shall notify the parties that conciliation services are available.

(3) Conciliation efforts may be undertaken by the City of Racine Conflict Resolution Center during the period beginning with the filing of the complaint and ending with the dismissal of the complaint under sub. (f)(5) or the issuance of a charge under sub. (f)(2).

(4) If conciliation resolves the dispute, a written conciliation agreement shall be prepared that 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 commission. A conciliation agreement entered into under this subdivision is a public record and is subject to inspection under section 19.35, Wis. Stats., unless the parties to the agreement request that the record be exempt from disclosure and the commission finds that disclosure is not required to further the purposes of this chapter.

(5) Whenever the commission has reasonable cause to believe that a respondent has breached a conciliation agreement, the commission shall refer the matter to the city attorney with a recommendation that a civil action be filed for enforcement of the agreement.

(h) Hearing Procedures.

(1) After a subcommittee issues a charge under sub. (f)(2), the department shall serve the charge, along with a written notice of hearing, specifying the nature and acts of discrimination that

appear to have been committed, and requiring the respondent to answer the charge at a hearing before the commission. The notice shall specify a time of hearing, not less than 10 days after service of the charge and a place of hearing.

(2) If an election to file a civil action is not made under sub. (f)(3), the hearing shall be conducted by a hearing examiner. If the city attorney has concurred in the subcommittee's determination of probable cause under sub. (f)(2), the aggrieved person on whose behalf the charge was issued shall be represented by the city attorney. 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 commission, the city attorney, 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 section 805.07 (4), Wis. Stats., and shall be served in the manner provided in section 805.07 (5). The attorney shall, at the time of issuance, send a copy of the subpoena to the commission.

(4) The testimony at the hearing shall be recorded by the commission. 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 as expeditiously and inexpensively as possible, 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 commission finds by a fair preponderance of the evidence that the respondent has committed a fair housing discrimination violation, the commission shall make written findings and order the respondent to take actions that will effectuate the purpose of this chapter, and may order other penalties, damages, and costs as provided in pars. (j) and (k). The department shall serve a certified copy of the final findings and order on the aggrieved party, the complainant, and the respondent. The enforcement of the order is automatically stayed upon the filing of a petition for review under par. (l).

(6) If the commission finds that the respondent has not engaged in discrimination as alleged in the complaint, the department shall serve a certified copy of the commission's findings on the aggrieved

party, the complainant, and the respondent together with an order dismissing the complaint.

(i) Time Limitations.

(1) The department shall commence proceedings with respect to a complaint before the end of the 5th day after receipt of the complaint.

(2) The subcommittee shall investigate the allegations of the complaint and complete the investigation not later than 45 days after receipt of the complaint. If the subcommittee is unable to complete the investigation within 45 days, it shall notify the commission, complainant, and respondent in writing of the reasons for not doing so.

(3) If a hearing is conducted under par. (h), the commission shall conduct such hearing and issue written findings not later than 100 days after receipt of the complaint. If the commission 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.

(4) 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.

(j) Damages and Penalties.

(1) If the commission finds that a respondent has engaged in or is about to engage in a discriminatory act prohibited under this chapter, the commission 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 commission may not order punitive damages.

(2) In addition to any damages ordered under subpar. a, the commission may assess a forfeiture against a respondent as provided in section 1-15, plus the costs of prosecution. Such forfeiture shall be assessed on a daily basis for each and every day such violation shall continue without limit. Notwithstanding the foregoing, if a respondent has been adjudged to have committed

one other discriminatory act under this chapter during the preceding five-year period, based on the offense date of the prior discriminatory act, the commission may assess a daily-basis forfeiture against a respondent as provided in section 1-15, plus the costs of prosecution, and shall assess an additional forfeiture in an amount not exceeding \$25,000. Notwithstanding the foregoing, if a respondent has been adjudged to have committed two or more prior other discriminatory act under this chapter during the preceding seven-year period, based on the offense date of the prior discriminatory act, the commission may assess a daily-basis forfeiture against a respondent as provided in section 1-15, plus the costs of prosecution, and shall assess an additional forfeiture in an amount not exceeding \$50,000.

(k) Attorney Fees and Costs. The commission may allow a prevailing complainant, including the city, reasonable attorney fees and costs. The city shall be liable for those fees and costs if the city is a respondent and is determined to have committed a discriminatory act.

(l) Judicial Review. Within 30 days after service upon all parties of an order or determination of the commission under this chapter, 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 sections 227.52 to 227.58, Wis. Stats.

(m) Civil Actions.

(1) Any person alleging a fair housing discrimination violation, including the city attorney 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.

(2) An action commenced under sub. (m)(1) may be brought in the circuit court for the county where the alleged violation occurred or for the 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.

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

court may order other relief that the court considers appropriate, including monetary damages, actual and punitive, a forfeiture as provided in par. (j) and costs and fees as provided in par. (k)

(n) Discrimination by Licensed or Chartered Persons.

(1) If the commission finds reasonable cause to believe that an act of discrimination has been or is being committed in violation of this section by a person and that the person is licensed or chartered under city ordinance, the commission shall notify the licensing or chartering 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.

(2) Upon filing a complaint under sub. (n)(1), the commission shall make available to the appropriate licensing or chartering agency all pertinent documents and files in its custody, and shall cooperate fully with such agency in the agency's proceedings.

Part 2:

This ordinance shall take effect upon passage and the day after publication.

Passed by the Common Council _____

Approved _____

Mayor

Attest:

City Clerk

FISCAL NOTE: N/A