

**CITY OF MADISON, WISCONSIN**

A 2ND SUBSTITUTE  
ORDINANCE

PRESENTED December 13, 2005  
REFERRED EOC, CPD, AAC, BOE & CCOC

RULES SUSPENSION \_\_\_\_\_  
PUBLIC HEARING \_\_\_\_\_

Creating Section 39.01 entitled "**Director Of The Department Of Civil Rights**" of the Madison General Ordinances to establish a Department of Civil Rights and amending and repealing portions of Section 3.23 entitled "Equal Opportunities Ordinance", Section 3.58 entitled "Affirmative Action Ordinance", Section 3.60 entitled "Reverend Doctor Martin Luther King, Jr. Humanitarian Award ", Section 3.62 entitled "Commission on People with Disabilities", and Section 3.72 entitled "Nondiscrimination Based on Disability in City Facilities and City-Assisted Programs and Activities" of the Madison General Ordinances to make technical corrections made necessary by the new section.

**EXHIBIT X**

Drafted by: Roger Allen

Date: April 11, 2006

SPONSORS: Mayor Cieslewicz; Aids. Gruber,  
King, Sanborn, Van Rooy and  
Golden

DRAFTER'S ANALYSIS: This amendment sets forth the operational structure of the Department of Civil Rights. Current ordinances have been amended to the degree necessary to reflect the operational structure of the new department. For example, where the current ordinances refer to the "Equal Opportunities Commission" or the "Affirmative Action Department" the amendments would change those references to the "Equal Opportunities Division" and the "Division of Affirmative Action" respectively. No substantive changes have been made to existing ordinances beyond creating the mission and organizational framework for the Department of Civil Rights

The Common Council of the City of Madison do hereby ordain as follows:

1. Section 39.01 entitled "Director of the Department of Civil Rights" of the Madison General Ordinances is created to read as follows:

**"39.01 DIRECTOR OF THE DEPARTMENT OF CIVIL RIGHTS.**

- (1) Mission of the Department of Civil Rights. There is hereby created a Department of Civil Rights that shall be managed and directed by a Department Director. The Department of Civil Rights is responsible for management, development and implementation of Secs. 3.23; 3.58; 3.60; 3.62; 3.72, and Chapter 39 of the Madison General Ordinances. The Department of Civil Rights is responsible for ensuring that the rights of all people are respected and that all persons are given

**Approved as to form:**

the equal opportunities to succeed based upon their personal merits. To this end, the Department of Civil Rights is created to vigorously pursue the policies and principles embodied in this Chapter both within the City as an employer and within the City as a community of people who respect the rights and the contributions of every community member.

- (2) Director of the Department of Civil Rights.  
(a) The position of the Director of the Department of Civil Rights as it becomes vacant shall be filled according to Sec. 3.38(6)(f) of these ordinances. The Mayor shall consider the recommendation of the Commission on People with Disabilities, the Equal Opportunities Commission and the Affirmative Action Commission in the selection of the Director. The Director shall be a person who possesses demonstrated experience in the promotion of civil rights, equal opportunities and affirmative action for all persons. The Director shall perform duties and exercise authority in accordance with City Ordinances, State and Federal statutes together with such additional duties as the Mayor and/or Common Council may from time to time prescribe. The Equal Opportunity Division Head, the Affirmative Action Division Head and the Disability Rights and Services Program Coordinator are to perform any duties assigned by these ordinances under supervision, direction and control of the Director of the Department of Civil Rights. The Director of Civil Rights shall have the overall responsibility and authority for implementing and promoting secs. 3.23; 3.58, 3.60; 3.72 and Chapter 39 of the Madison General Ordinances.
- (3) Equal Opportunity Division Head. There is hereby created a Division of Equal Opportunities that shall be managed and directed by a Division Head. The Equal Opportunities Division Head shall report to, be supervised by and perform the duties of his/ her office under the control of the Director of the Department of Civil Rights and shall be responsible for the implementation of sec. 3.23, M.G.O., the Madison Equal Opportunities Ordinance. The Director of the Department of Civil Rights may designate the Equal Opportunities Division Head as an ex officio non-voting member of the Madison Equal Opportunities Commission. The Division Head shall have a background demonstrative of a commitment to the policies set forth in sec. 3.23, M.G.O., the Madison Equal Opportunities Ordinance. In performing his/ her duties the Division Head may delegate his/ her authority to a subordinate employee within the division.
- (4) Affirmative Action Division Head. There is hereby created a Division of Affirmative Action that shall be managed and directed by a Division Head. The Affirmative Action Division Head shall report to, be supervised by and perform the duties of his/ her office under the control of the Director of the Department of Civil Rights and shall be responsible for the implementation of sec. 3.58, M.G.O., the City's Affirmative Action Ordinance. The Director of the Department of Civil Rights may designate the Affirmative Action Division Head to serve as an ex officio non-voting member of the Affirmative Action Commission. The Division Head shall have a background of demonstrated commitment to the policies embodied in this ordinance. In performing his/ her duties the Division Head may delegate his/ her authority to a subordinate employee within the division.
- (5) Disability Rights and Services Program Coordinator. There is hereby created the position of Disability Rights and Services Program Coordinator who shall work under the supervision of the Director of the Department of Civil Rights. This person shall assist the Director of the Department of Civil Rights in carrying out his/her responsibilities under sec. 3.72, M.G.O. and shall perform such other duties as the Director of the Department of Civil Rights may direct."

2. Subparagraph f. of Paragraph 4. entitled "Mandatory Recordkeeping Procedures" of Subdivision (d) of Subsection (4) entitled "Housing" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

" f. In the event a formal complaint of discrimination is made to the EOC, the landlord shall make available for inspection and permit the ~~Director of the Equal Opportunities Commission~~ Equal Opportunities Division Head or his/her designee to inspect during normal business hours all documents identified in Subparagraphs a. through e. above. The ~~EOC Director~~ Equal Opportunities Division Head or designee shall promptly conduct such inspection for the sole purpose of determining compliance with this subsection on conviction records. Any person who fails or refuses to allow such inspection(s) or who fails to maintain or retain required records shall be in violation of this ordinance and, upon conviction, shall be subject to a forfeiture as provided in Section 3.23(15) of the Madison General Ordinances."

3. Subsection (10) entitled "Equal Opportunities Commission" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended by amending therein the following:

"(10) Equal Opportunities Commission And Equal Opportunities Division. The Mayor, subject to confirmation by the Common Council, shall appoint an Equal Opportunities Commission, consisting of thirteen (13) members, one of whom shall be designated President by the members of the Commission. At least one, and no more than two, such members shall be an Alderperson, who shall be a member only as long as she/he shall continue to hold office as Alderperson. One member shall also be a member of the Affirmative Action Commission and one member shall also be a member of the Commission on People with Disabilities. Members shall be appointed from among the residents of the entire City, shall be representative of both sexes, and of all races, religions, colors, organizations and fields of endeavor, all sexual orientations, handicapped citizens, and shall be committed to the principle of equal opportunities. They shall receive no compensation for their services. There shall also be an Equal Opportunities Division established within the Department of Civil Rights, headed by an Equal Opportunity Division Head as that position is established and set forth in Sec. 39.01(2), MGO.

4. Subparagraph c. of Paragraph 4. of Subdivision (b) Subsection (10) entitled "Equal Opportunities Commission" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

" c. Any conciliation agreement is a public record and subject to inspection as provided in Sec. 19.35, Wis. Stats., and Sec. 3.42 of these ordinances, unless the parties to the agreement request that the record be exempt from disclosure and the Equal Opportunities Division Head determines in accordance with the Wisconsin Public Records Laws that it would be clearly contrary to the public's interests to disclose such conciliation agreement. ~~Executive Director finds that disclosure is not required to further the purposes of this section."~~

5. Paragraph 9. of Subdivision (b) of Subsection (10) entitled "Equal Opportunities Commission" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"9. The Commission may, from time to time, designate Commissioners and/or ~~Commission~~ Equal Opportunities Division staff to carry out its duties."

6. Paragraph 1. of Subdivision (c) of Subsection (10) entitled "Equal Opportunities Commission" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"1. Filing of Complaints. The Commission shall not accept any complaint filed more than three hundred (300) days after the alleged discrimination occurred, except that complaints of housing discrimination may be filed up to one (1) year after the alleged discrimination occurred. The Commission shall not investigate any complaint unless it is in writing and verified by the complainant, and a copy of the complaint is sent to the person or persons complained of, hereinafter referred to as respondent.

In addition, upon receipt of a verified complaint, both the complainant and the respondent shall be advised that copies of the Commission rules governing hearing procedures and the processing of complaints are available at the office of the ~~Executive Director of the EOC~~ Director of the Department of Civil Rights."

7. Paragraph 2. of Subdivision (c) of Subsection (10) entitled "Equal Opportunities Commission" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to add a title as follows:

"2. Hearings."

8. Paragraph 3. of Subdivision (c) of Subsection (10) entitled "Equal Opportunities Commission" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to add a title as follows:

"3. Judicial Enforcement of Orders."

9. Paragraph 4. of Subdivision (c) of Subsection (10) entitled "Equal Opportunities Commission" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to add a title as follows:

"4. Judicial Review of Orders."

10. Paragraph 5. of Subdivision (c) of Subsection (10) entitled "Equal Opportunities Commission" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to add a title as follows:

"5. Housing Discrimination Complaint Procedures."

11. Subdivision (e) entitled "Executive Director of the Equal Opportunities Commission" of Subsection (10) entitled "Equal Opportunities Commission" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is hereby repealed.

12. Subsection (13) of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(13) At any time after a complaint is filed, the ~~Executive Director~~ Director of the Department of Civil Rights may request the City Attorney to file a civil action in the circuit court for Dane County, seeking appropriate temporary relief against the respondent, pending final action by the Commission under this section. Such relief may include an order or decree restraining the respondent from performing an act tending to render ineffectual an order the Commission may enter with respect to the complaint. The court may grant such temporary relief or restraining order as it deems just and proper."

13. Subdivision (b) of Subsection (13) of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(b) Any person who shall fail or neglect to comply with any lawful order of the Equal Opportunities Commission issued pursuant to the provisions of this section shall be deemed guilty of a violation of this section, and every day or fraction thereof on which such person shall fail or neglect to comply with such order, shall be deemed a separate offense. If the order is based upon a finding of public accommodation discrimination under Sec. 3.23(10)(c)2.b., Madison General Ordinances, by the holder of an alcohol beverage license issued pursuant to Chapter 38, Madison General Ordinances, the ~~Executive Director of the Commission~~ Director of the Department of Civil Rights shall also relay ~~its~~ the Equal Opportunities Commission's findings of failure or neglect to comply with the order to the City Attorney who shall commence a proceeding pursuant to Sec. 38.10 of these ordinances.

14. Subsection (2) entitled "Affirmative Action Department" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

"(2) Affirmative Action Department Division There is hereby created a ~~Department Division~~ Department Division of Affirmative Action within the Department of Civil Rights. The ~~Department Division~~ Department Division of Affirmative Action shall be managed and directed by a ~~Director of an Affirmative Action Division Head~~ as that position is established and set forth in Sec. 39.01(3), MGO. who shall have responsibility and authority for the development and implementation of the City's Affirmative Action Program. ~~The Director of Affirmative Action shall have a background which demonstrates a commitment to the policy of this ordinance. The Director of Affirmative Action shall be appointed by the Mayor subject to the approval of the Common Council and shall be directly responsible to the Mayor and Council. Prior to said appointment, the Mayor shall seek from the Affirmative Action Commission recommendations as to suitable candidates for this position. The Director of Affirmative Action shall hold office for a term of five (5) years and until a successor is appointed. The Director of Affirmative Action shall receive all the benefits and incidents of civil service subject to the five (5) year term. The initial five (5) year term shall commence immediately upon the approval of the Director of Affirmative Action by the Common Council and in any event before the commencement of employment of said Director of Affirmative Action and shall terminate at the end of the fifth subsequent calendar year. All five (5) year terms thereafter shall coincide with calendar years. The incumbent Director of Affirmative Action is subject to a renewed five (5) year term. If the intention is to renew for an additional five (5) year term the Mayor shall, no later than six (6) months prior to the expiration of the present term, submit the name of the incumbent to the Common Council for confirmation of the renewed term. If the incumbent is not submitted for renewal or is rejected, the position shall be subjected to the appointment procedures set forth in the~~

~~provisions of the civil service system Section 3.35 of the Madison General Ordinances. The incumbent shall not be barred from reapplying for the position."~~

15. Subdivision (a) entitled "Composition" of Subsection (3) entitled "Affirmative Action Commission" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

"(a) Composition. The Mayor, subject to confirmation by the Common Council, shall appoint an Affirmative Action Commission consisting of eleven (11) members, one of whom shall be an Alderperson, one of whom shall also be a member of the Equal Opportunities Commission and one of whom shall also be a member of the Commission on People with Disabilities. One member shall be designated chairperson by the members of the Commission. Members shall be appointed from the entire City, and at no time shall the total of women, persons with disabilities, and ethnic minority members constitute less than a majority. All of the members shall be committed to the extension of equal employment opportunities and shall be representative of the affected and/or under-represented groups of the Madison community. They shall receive no compensation for their services. The Director of the Department of Civil Rights may appoint the Director of Affirmative Action Division Head to serve as shall be an ex officio nonvoting member of this Commission. The Commission shall make its own rules and regulations for the carrying out of its duties."

16. Subdivision (d) of Subsection (3) entitled "Affirmative Action Commission" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

- (d) The Affirmative Action Commission shall have the following duties:
1. To annually review, approve and recommend the Citywide Affirmative Action goals and timetables as proposed by the ~~Director of Affirmative Action~~ Division Head.
  2. To advise affected and/or other under-represented groups of their rights under the Affirmative Action Program.
  3. To disseminate information and to educate the people of the City of Madison to a greater understanding and practice of Affirmative Action Employment for all affected and/or other under-represented groups.
  4. To render from time to time, but not less than once a year, written reports of its progress, activities and recommendations to the Mayor and Common Council.
  5. To recommend and review such rules and regulations as may be necessary to promulgate the City's Affirmative Action Program.
  6. To develop and review the contract compliance requirements of the City of Madison and to develop a policy with respect to vendors and contractors.
  7. To make specific recommendations to the Common Council so as to bring all appropriate ordinances into conformity with the policies of this ordinance if necessary.
  8. To provide administrative review of decisions of the Contract Compliance Officer to grant, deny or revoke certifications as a Minority Business Enterprise (MBE), Women Business Enterprise (WBE), or Disadvantaged Business Enterprise (DBE) as these are defined in Sec. 3.58(9)(a)9.-11. of these ordinances and in the City of Madison Disadvantaged Business Enterprise/Minority Business Enterprise Program as approved by the Common Council; and a Small Business Enterprise (SBE) as defined in the Small Business Enterprise Program approved by the Common Council. The Commission shall adopt procedural rules for the conduct of such appeals. The Chairperson of the Affirmative Action Commission shall appoint a certification appeals committee consisting of seven (7) persons, including one member of the Common Council, one member of the Board of Public Works, two (2) members of the Affirmative Action Commission, and three (3) citizens, to serve two (2) year terms.
  9. To approve a City of Madison Civil Rights Compliance Plan, in order to maintain City compliance with Title VI of the Civil Rights Act of 1964, as amended. The ~~Director of Affirmative Action~~ Division Head shall coordinate the preparation of the Plan for the Commission's approval. Every City department which receives funds covered by Title VI shall cooperate with and assist the ~~Director of Affirmative Action~~ Division Head in the preparation of the Plan.

17. Subsection (4) entitled "Affirmative Action Commission" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

"(4) Departmental Affirmative Action Plans.

- (a) ~~The Director of Affirmative Action~~ Division Head in concert with the head of each department, board, commission or committee shall develop a written Affirmative Action Plan. Each department head in concert with the ~~Director of Affirmative Action~~ Division Head, shall within two hundred forty (240) days from the appointment of the Affirmative Action Officer, develop a written Affirmative Action Plan. The plan, to be updated annually, is to be developed pursuant to the federal guidelines found in Part 60-2 of Chapter 60 of Title 41 of the Code of Federal Regulations 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 departmental affirmative action plans, the ~~Department~~ Division of Affirmative Action shall have the full cooperation of the department head, board, commission or committee and access to all departmental 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 must be obtained prior to the release of these documents to the ~~Department~~ Division of Affirmative Action."

18. Subdivision (a) Subsection (5) entitled " Citywide Affirmative Action Program" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

- "(a) The ~~Department~~ Division of Affirmative Action shall incorporate the individual departmental plans into a composite Citywide Affirmative Action Program which shall be submitted to the Affirmative Action Commission. This program 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."

19. Subsection (6) entitled "Implementation" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

- "(6) Implementation. Implementation of the City's Affirmative Action Program 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 Citywide affirmative action goals. The Human Resources Department, with the assistance of the ~~Department~~ Division of Affirmative Action, shall expand the recruitment programs to include but not be limited to the following:
1. Inform members of affected and/or other under-represented groups of this Affirmative Action Program and seek their support in attracting applicants.
  2. Include information about the Affirmative Action Program on all job and contract announcements.
  3. Prepare a specific brochure summarizing the Affirmative Action Program 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.
  1. The Human Resources Department, in conjunction with the ~~Department~~ Division of Affirmative Action, shall review all testing, selection and placement policies of the City to determine that they are free of cultural bias, 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 Department, in conjunction with the ~~Department~~ Division of Affirmative Action, shall develop procedures to establish visible 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. The ~~Department~~ Division of Affirmative Action shall, with the cooperation of the Organization Development and Training Unit of the Human Resources Department, develop education and training programs designed to develop the knowledge and skills essential to compensate for the 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 ~~Department~~ Division of Affirmative Action shall work with the Equal Opportunities ~~Commission~~ Division 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 ~~Department~~ Division of Affirmative Action shall maintain statistics and institute research to identify the reasons for job turnover among all City employees especially among affected and/or other under-represented groups which may have affirmative action ramifications.
- (e) Complaints. The Citywide Affirmative Action Plan shall contain an informal complaint procedure. The procedure shall permit applicants and employees to bring complaints of prohibited discrimination to the Division of Affirmative Action ~~Department~~ for investigation and informal problem-solving and resolution. Department and Division heads shall cooperate with the ~~Director of Affirmative Action~~ Division Head in carrying out the informal complaint procedure, but nothing contained in the informal complaint procedure may relieve an appointing authority of responsibility for selection, discipline and discharge decisions. The ~~Director of Affirmative Action~~ Division Head shall provide every person who makes a complaint with information, in writing and in accessible format, on filing formal complaints with local, state and federal agencies empowered to receive such complaints. Such information shall include applicable time limits."

20. Subsection (7) entitled "Accountability and Reports" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

- (7) Accountability and Reports.
  - (a) The ~~Department~~ Division of Affirmative Action shall be responsible for the successful implementation and coordination of the Citywide Affirmative Action Program. In turn, each department head shall be accountable to the ~~Department~~ Division of Affirmative Action for the successful implementation of the departmental affirmative action plans.
  - (b) The ~~Department~~ Division of Affirmative Action shall at least annually file a written progress report with the Affirmative Action Commission, the Mayor and Council indicating the progress toward achieving the affirmative action goals. The report shall include but not be limited to the following:
    1. A summary of departmental and City affirmative action goals as well as any special projects tied to this program.
    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 therefore shall also be provided.
    3. A description of the recruitment and training programs instituted to achieve the objectives of this 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 summary of informal complaints."

21. Subdivision (a) of Subsection (8) entitled "Civil Rights Compliance Plan" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

"(a) In order to maintain City compliance with Title VI of the Civil Rights Act of 1964, as amended, the ~~Department~~ Division of Affirmative Action shall coordinate the development and implementation of individual department plans for civil rights compliance. Department plans shall be incorporated into a composite, citywide Civil Rights Compliance Plan which includes policies and procedures governing equal access to public services and the City of Madison informal citizen complaint procedure. The Civil Rights Compliance Plan shall be submitted to the Affirmative Action Commission for approval."

22. Paragraph 1. entitled "Affirmative Action Plan" of Subdivision (a) entitled "Definitions" of Subsection (8) entitled "Civil Rights Compliance Plan" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

"1. Affirmative Action Plan. A plan that is designed to insure that the contractor provides equal employment opportunity to all and takes affirmative action in its utilization of applicants and employees who are women, minority or persons with disabilities. Such a plan must be completed by each nonexempt contractor and be approved by the Director of Affirmative Action. The ~~Director of Affirmative Action~~ Division Head shall approve affirmative action plans which meet standards established by the Common Council."

23. Subdivision (c) of Subsection (8) entitled "Civil Rights Compliance Plan" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

"(c) Every contract to which the City of Madison is a party, except those exempted by Sec. 3.58(9)(a)2.a., b., d., e., f., g., h. shall contain the following language:  
The contractor agrees that, within thirty (30) days after the effective date of this agreement, the contractor will provide to the City of Madison ~~Department~~ Division of Affirmative Action certain workforce utilization statistics, using a form to be furnished by the City.

If the contract is still in effect, or if the City enters into a new agreement with the contractor, within one year after the date on which the form was required to be provided, the contractor will provide updated workforce information using a second form, also to be furnished by the City. The second form will be submitted to the City ~~Department~~ Division of Affirmative Action no later than one year after the date on which the first form was required to be provided.

The contractor further agrees that, for at least twelve (12) months after the effective date of this contract, it will notify the City of Madison ~~Department~~ Division of Affirmative Action of each of its job openings at facilities in Dane County for which applicants not already employees of the contractor are to be considered. The notice will include a job description, classification, qualifications, and application procedures and deadlines. The contractor agrees to interview and consider candidates referred by the ~~Department~~ Division of Affirmative Action if the candidate meets the minimum qualification standards established by the contractor, and if the referral is timely. A referral is timely if it is received by the contractor on or before the date stated in the notice."

24. Subdivision (d) entitled "Small Business Enterprise Program" of Subsection (8) entitled "Civil Rights Compliance Plan" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

"(d) Small Business Enterprise Program. A detailed small business enterprise program shall be submitted to the Council for its approval. The program shall include procedures for certification of small business enterprises, shall establish a mechanism for setting small business enterprise participation goals for all public works projects with an estimated cost of \$100,000 or more, and shall establish other necessary and appropriate procedures. Applicable requirements of the program shall be incorporated into City contracts. The ~~Department~~ Division of Affirmative Action shall study the effect of the small business enterprise program on participation by affected and underrepresented groups in city contracting and shall provide a full report to the Common Council on or before January 1, 1993, and every two years thereafter."

25. Paragraph 1. entitled "Submission of Affirmative Action Plans" of Subdivision (e) entitled "Compliance Requirements" of Subsection (8) entitled "Civil Rights Compliance Plan" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:



"1. Submission of Affirmative Action Plans.

- a. Public Works Projects. The award of any public works contract, except those exempted by Sec. 3.58(9)(a)2.a., shall be subject to and contingent upon the lowest responsible bidder submitting in writing to the ~~Department~~ Division of Affirmative Action, an Affirmative Action Plan for Public Works Contractors. Such Affirmative Action Plan shall be submitted with the contractor's bid prequalification documents. Should any contractor fail or refuse to submit an Affirmative Action Plan as required by this section, such contractor shall not be qualified to bid on any City Public Works contracts until said contractor has complied. All such contractors shall require their subcontractors to file an approved Affirmative Action Plan prior to the subcontractor being allowed to start work on any City project.

No public works contractor may be prequalified by the Director of Public Works for work advertised after April 1, 1991, unless the contractor submits an Affirmative Action Plan approved by the ~~Department~~ Division of Affirmative Action.

- b. Other City Contracts. Within thirty (30) days from the effective date of a contract with the City or effective date of a purchase order, and prior to release of payment by the City, all nonexempt contractors are required to have on file an affirmative action plan which is a model affirmative action plan approved by the Common Council or which meets the requirements of Federal Revised Order No. 4, 41 CFR Part 60-2, as established in 43 FR 51400, November 3, 1978, and which includes, in addition, the following appendices:
- i. A work force utilization analysis and goals and timetables for applicants and employees with disabilities. This document shall either meet the criteria found in 41 CFR Parts 60-2.11 and 60-2.12, as established in 43 FR 51400, November 3, 1978, or shall follow the format contained in the model affirmative action plan for vendors as approved by the Madison Common Council.
- ii. The applicable provisions for MBE, DBE, WBE, and SBE utilization which are contained in the model affirmative action plan for vendors as approved by the Madison Common Council.

Should any contractor fail or refuse to comply with this section and the contract with the City, the ~~Director of Affirmative Action~~ Division Head shall recommend appropriate action under Article VII of the contract Articles of Agreement and other provisions of this ordinance.

26. Paragraph 2. entitled "Contract Conditions" of Subdivision (e) entitled "Compliance Requirements" of Subsection (8) entitled "Civil Rights Compliance Plan" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended by amending therein the following:

"ARTICLE V

(This article applies only to public works contracts.)

The contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison, including the contract compliance requirements. The contractor agrees to submit the model affirmative action plan for public works contractors in a form approved by the ~~Director of Affirmative Action~~ Division Head."

"ARTICLE VI

The contractor will maintain records as required by Section 3.58(9)(f) of the Madison General Ordinances and will provide the City's ~~Department~~ Division of Affirmative Action with access to such records and to persons who have relevant and necessary information, as provided in Section 3.58(9)(f). The City agrees to keep all such records confidential, except to the extent that public inspection is required by law."

27. Subdivision (f) entitled "Record-Keeping Requirements" of Subsection (8) entitled "Civil Rights Compliance Plan" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

"(f) Record-Keeping Requirements.

1. Maintenance of Records. All contractors shall keep full and accurate records of the minority group status and the sex of all employees and whether or not they are persons with disabilities, as well as dates of hire, termination, recall and/or layoff, reasons for termination or layoff, and job duties or job

description for each employee. In addition, every contractor subject to Wis. Stats. Sec. 66.0903(10)(a) and Sections DWD 290.13 and DWD 290.14 of the Wisconsin Administrative Code shall keep records of the name and trade or occupation of every employee, and an accurate record of hours worked by each employee as are required to be kept pursuant to those regulations.

All contractors shall also maintain such records as may be required by the Common Council in the Affirmative Action Plan as defined in Sec. 3.58(9)(a)1. of this ordinance. Contractors requesting exempt status under this ordinance shall furnish all information requested by the ~~Department~~ Division of Affirmative Action in order to determine exempt status.

2. Production of Records. Contractors shall provide such records at the office of the ~~Department~~ Division of Affirmative Action within ten (10) days of the date requested in writing and shall permit the ~~Director~~ of Affirmative Action Division Head or designee access during normal business hours to all of the above records, as well as access to persons who may have information relevant and necessary to ascertain compliance with this section within ten (10) days of the date requested in writing. Such request may be made:
  - a. Once every twelve (12) months.
  - b. At any time when an employee, former employee, or applicant for employment of the contractor has filed a formal complaint of discrimination with the ~~Department~~ Division of Affirmative Action or with a local, state or federal agency.
  - c. At any time when the ~~Department~~ Division of Affirmative Action finds substantial deficits or questionable or inconsistent information in the affirmative action plan submitted by the contractor.
  - d. At any time when a contractor reports no progress toward achieving a balanced work force and the ~~Director~~ of Affirmative Action Division Head deems it necessary to examine documented good-faith efforts.

The ~~Director's~~ Division Head's written request for access shall inform the contractor of the basis for the request.

3. Public Inspection of Records. All contract-related records in the custody of the ~~Department~~ Division of Affirmative Action shall be open for public inspection and copying, as provided in Sec. 3.42 of these ordinances, except the following:
  - a. Records which are exempt from disclosure under the provisions of Sec. 3.42(9) of these ordinances.
  - b. Records provided in connection with compliance investigations and compliance investigation files; except that compliance reports shall be open to inspection and copying, and all minutes, proceedings, evidence, findings and orders of the Affirmative Action Commission shall be open to inspection and copying.
  - c. Names and other information identifying individual complainants.
  - d. Those portions of affirmative action plans which constitute information on staffing patterns and pay scales, if release for public inspection could reasonably be expected to affect the competitive or financial position of the contractor, would constitute a release of confidential or salary information of an employee or would constitute an unwarranted invasion of privacy of an employee.
  - e. Tests used by contractors for selection purposes."

28. Subdivision (g) entitled "Enforcement" of Subsection (8) entitled "Civil Rights Compliance Plan" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

"(g) Enforcement. The ~~Department~~ Division of Affirmative Action may review contractors' compliance with affirmative action plans, contract provisions and provisions of this ordinance at any time up to one (1) year after the expiration of the contract. A contractor is in compliance with this ordinance when it adheres to the provisions of this ordinance, its contract, and its affirmative action plan.

The ~~Department~~ Division of Affirmative Action shall review the compliance status of each contractor at least once every two (2) years and shall use the following compliance review procedure:

1. The ~~Director~~ of Affirmative Action Division Head or designee shall give each contractor at least five (5) days written notice of the commencement of a compliance review, and shall examine the contractor's affirmative action plan and supporting documents, as well as other documents and records furnished by the contractor under Sec. 3.58(9)(f).
2. The ~~Director~~ of Affirmative Action Division Head or designee may schedule an on-site review, as provided in Sec. 3.58(9)(f)2., by notifying the contractor in writing no less than ten (10) days in advance.

3. After a compliance review, the ~~Director of Affirmative Action~~ Division Head shall provide the contractor with a written compliance report, which shall either state that the contractor is in compliance, or if the contractor is found not to be in compliance, the report shall list specifically the facts on which such finding is based, and what remedial actions should be taken by the contractor in order to achieve compliance.  
The ~~Department~~ Division of Affirmative Action shall provide technical assistance where feasible and appropriate to assist the contractor in achieving compliance.
4. Within thirty (30) days after receipt of a report of noncompliance, or such longer period as the ~~Director of Affirmative Action~~ Division Head may permit in writing, the contractor shall submit an amended affirmative action plan, specifying and agreeing to take such remedial actions as will achieve compliance.
5. If the contractor fails or refuses to submit such an amended affirmative action plan, or refuses to comply with the provisions thereof, the ~~Director of Affirmative Action~~ Division Head, after consultation with the City Attorney and the City department or division responsible for the administration of the contract, shall send the contractor by certified mail a Demand to Cure Default. The Demand shall specify the factual basis for the finding of noncompliance and what remedial actions are demanded.  
The Demand shall also set a date certain by which the contractor must either offer to comply or request a hearing. An offer to comply shall consist of a proposed amended affirmative action plan, specifying and agreeing to take such remedial actions as will achieve compliance. If the ~~Director of Affirmative Action~~ Division Head approves the proposed amended affirmative action plan, the contractor's default is cured. If the proposed amended affirmative action plan is not approved, the ~~Director of Affirmative Action~~ Division Head shall specify in writing the reasons for disapproval.
6. If the contractor requests a hearing, the Affirmative Action Commission shall schedule a hearing within five (5) working days after receiving the request. The initial date of the hearing shall be not more than fifteen (15) working days after the request is filed with the ~~Director of Affirmative Action~~ Division Head.
7. At the hearing, the ~~Director of Affirmative Action~~ Division Head shall have the burden to persuade the Affirmative Action Commission of the facts supporting his/her findings. Each party shall have the right to appear in person and by counsel, to call and examine all witnesses, and to introduce exhibits. The Affirmative Action Commission shall have the power to compel by subpoena the attendance of and examine under oath or affirmation, persons, whether as parties or as witnesses, and to compel by subpoena duces tecum the production before it of books, records, papers or other evidence which may relate to the subject matter of the hearing. In the admission of evidence, the Affirmative Action Commission shall abide by the provisions of Sec. 227.45, Wis. Stats. The Commission shall make written findings of fact and conclusions of law on the following issues:
  - a. Whether the finding of noncompliance should be sustained.
  - b. If the finding of noncompliance is sustained, the Affirmative Action Commission shall decide whether the contract should be cancelled, terminated, or suspended, in whole or in part; whether the contractor should be found ineligible for further City contracts, and if so, what measures taken by the contractor will restore such eligibility; and whether liquidated damages should be sought under the provisions of the contract. The Commission may decide to allow the contractor additional time in which to take the necessary remedial action.
8. The Affirmative Action Commission shall provide written findings and conclusions and a written order within thirty (30) days after the conclusion of the hearing and shall serve copies thereof upon the contractor by certified mail. The Commission's findings and conclusions shall constitute final administrative determinations and shall be subject to review in court as by law may be provided.
9. If the Affirmative Action Commission orders the contract to be cancelled, terminated or suspended, the receipt by the contractor of such order shall constitute a written notice of termination under the termination procedures provided in the contract.
10. If the Commission orders that a contractor shall be ineligible for further City contracts, no bids or proposals of the contractor may be opened or considered, or contracts entered into, until the ~~Director of Affirmative Action~~ Division Head certifies that the contractor has taken the measures specified by the Commission to restore eligibility, or until the expiration of two (2) years from the date of the order, whichever is sooner.

11. If the Affirmative Action Commission, after consultation with the City Attorney, determines that liquidated damages should be sought, the City Attorney shall institute court action to recover such damages.
12. If the contractor fails to comply with the Demand to Cure Default and fails to request a hearing, the contract shall be terminated. In addition, the ~~Director of Affirmative Action~~ Division Head may request the Affirmative Action Commission to order additional remedies. Such a hearing shall be held according to the procedures in Section 3.58(9)(g)7.-12. above.

29. Subdivision (h) entitled "Complaints" of Subsection (8) entitled "Civil Rights Compliance Plan" of Section 3.58 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

"(h) Complaints. The ~~Department~~ Division of Affirmative Action shall investigate complaints filed by employees or applicants for employment with nonexempt contractors, when such complaints allege violation of this ordinance or of the Affirmative Action Articles of Agreement contained in the contract. Such complaints shall not be investigated unless they are in writing and are filed not more than sixty (60) days after the alleged violation occurred, or not more than one (1) year after the expiration of the contract, whichever is sooner. The ~~Department~~ Division of Affirmative Action shall refer complainants to the Madison Equal Opportunities Commission, the Equal Rights Division of the Wisconsin Department of Workforce Development, the U.S. Equal Employment Opportunities Commission, the U.S. Office of Federal Contract Compliance Programs, and other appropriate agencies.

Within ten (10) working days of the receipt of such a complaint, the ~~Department~~ Division of Affirmative Action shall either:

1. Initiate a compliance review, following the procedures set forth in Subsection (9)(g) of this ordinance; or
2. Determine that the complaint does not warrant a compliance review. If the ~~Department~~ Division of Affirmative Action determines that the complaint does not warrant a compliance review, he/she shall inform the complainant in writing, listing the reasons for the determination. A complainant may appeal the determination to the Affirmative Action Commission by filing a written letter of appeal with the ~~Department~~ Division of Affirmative Action within ten (10) working days after receiving the determination.

The Affirmative Action Commission shall consider the appeal at the next regularly scheduled meeting or within twenty (20) days, whichever is sooner. The contractor involved shall be notified at least ten (10) days in advance of the meeting at which the appeal is to be considered.

In considering the appeal, the Commission shall not be bound by the rules of evidence, but shall consider any evidence which is reasonably probative, and shall allow, but not require the contractor to participate. The Commission shall exercise its discretion to determine whether or not the complaint warrants investigation. The Commission may order the Affirmative Action Officer to initiate a compliance review, or it may dismiss the complaint."

30. Subsection (2) of Section 3.60 entitled "Reverend Doctor Martin Luther King, Jr. Humanitarian Award" of the Madison General Ordinances is amended to read as follows:

"(2) The Mayor shall appoint a Committee, which shall consist of the Mayor or his/her designee as an ex officio nonvoting member; the City's ~~Director of Affirmative Action~~ Division Head; the ~~Director of the Office of Equal Opportunities~~ Division Head; and one delegate from each of the following commissions/ committees: the Madison Equal Opportunities Commission, the Affirmative Action Commission, the Community Block Grant Development Commission, the Community Service Commission and the Commission on People with Disabilities. This Committee shall annually seek candidates and select the recipient or recipients of this award."

31. Subdivision (a) of Subsection (4) entitled "Duties" of Section 3.62 entitled "Commission on People with Disabilities" of the Madison General Ordinances is amended to read as follows:

"(a) Recommend policy to the Mayor, Common Council and Department of ~~Affirmative Action~~ Civil Rights in all areas that affect people with disabilities and their families."

32. Subsection (7) entitled "Staff" of Section 3.62 entitled "Commission on People with Disabilities" of the Madison General Ordinances is amended to read as follows:

(7) Staff. The Commission shall receive staff services from the Department of ~~Affirmative Action Office~~ Civil Rights."

33. Subsection (3) entitled "Disability Rights Coordinator" of Section 3.72 entitled "Nondiscrimination Based On Disability In City Facilities And City-Assisted Programs And Activities" of the Madison General Ordinances is hereby repealed.

34. Current Subsections (4) through (18) of Section 3.72 entitled "Nondiscrimination Based On Disability In City Facilities And City-Assisted Programs And Activities" of the Madison General Ordinances are renumbered to Subsections (3) through (17), respectively.

35. Renumbered Subsection (7) entitled "Assurances Required" of Section 3.72 entitled "Nondiscrimination Based On Disability In City Facilities And City-Assisted Programs And Activities" of the Madison General Ordinances is amended to read as follows:

"~~(8)~~ (7) Assurances Required. Applicants for City financial assistance shall submit a written assurance of compliance with this subsection on a form specified by the Director of ~~Affirmative Action~~ the Department of Civil Rights or his/her designee. The assurance shall be incorporated into any contract between the recipient and the City. No City financial assistance shall be granted unless such an assurance is provided by the applicant or recipient prior to the granting of the City financial assistance. The foregoing requirement does not apply to City financial assistance provided without a written contract, but all of the other provisions of this ordinance do apply to such financial assistance."

36. Renumbered Subsection (8) entitled "Compliance Reviews" of Section 3.72 entitled "Nondiscrimination Based On Disability In City Facilities And City-Assisted Programs And Activities" of the Madison General Ordinances is amended to read as follows:

"~~(9)~~ (8) Compliance Reviews. The City's Director of ~~Affirmative Action~~ the Department of Civil Rights or his/her designee may periodically review the practices of recipients to determine whether they are complying with this ordinance, and may require recipients to provide relevant information."

37. Renumbered Subsection (9) entitled "Complaints" of Section 3.72 entitled "Nondiscrimination Based On Disability In City Facilities And City-Assisted Programs And Activities" of the Madison General Ordinances is amended to read as follows:

"~~(10)~~ (9)Complaints. Any person who believes this section has been violated by a City facility or a recipient of City financial assistance may bring the alleged violation to the attention of the ~~Department of Affirmative Action~~ Director of the Department of Civil Rights or his/her designee. Such complaints shall be filed within three hundred (300) days of the alleged violation. The Director of ~~Affirmative Action~~ the Department of Civil Rights or his/her designee shall post notices in accessible format of the complaint procedure. Any complaint shall be a public record available to any person for inspection and copying."

38. Renumbered Subsection (10) entitled "Investigation" of Section 3.72 entitled "Nondiscrimination Based On Disability In City Facilities And City-Assisted Programs And Activities" of the Madison General Ordinances is amended to read as follows:

"~~(11)~~(10)Investigation. The Director of ~~Affirmative Action~~ the Department of Civil Rights or his/her designee shall promptly investigate whenever a compliance review or complaint indicates a possible violation of this section. The Commission on People with Disabilities shall establish rules governing complaint processing and compliance review procedures, and such rules shall be approved by the Common Council.

39. Renumbered Subsection (11) entitled "Determination" of Section 3.72 entitled "Nondiscrimination Based On Disability In City Facilities And City-Assisted Programs And Activities" of the Madison General Ordinances is amended to read as follows:

~~(12)~~ (11)Determination. After investigating, the Director of ~~Affirmative Action~~ the Department of Civil Rights or his/her designee shall issue a written determination of compliance or noncompliance and shall provide copies of the determination to the Commission on People with Disabilities, to the recipient or City Department or Division head responsible for the City facility and to the complainant, if any. Any

determination of noncompliance shall contain a proposal for a reasonable remedy, and a reasonable deadline for compliance with the remedy. The written determination shall be a public record available to any person for inspection and copying."

40. Renumbered Subsection (12) entitled "Voluntary Compliance" of Section 3.72 entitled "Nondiscrimination Based On Disability In City Facilities And City-Assisted Programs And Activities" of the Madison General Ordinances is amended to read as follows:

~~(13)~~ (12) Voluntary Compliance. If, after investigation, the Director of ~~Affirmative Action~~ the Department of Civil Rights or his/her designee has found the recipient or the City facility not to be in compliance with this Section, the Director of ~~Affirmative Action~~ the Department of Civil Rights and the recipient, or, in the case of a City facility, the responsible Department head, may agree upon an informal resolution of the matter by a voluntary compliance agreement. Informal resolutions shall remedy any violation of the rights of a complainant and shall assure elimination of the violation and the prevention of its recurrence. Such voluntary compliance agreements shall be in writing, and shall be approved by the Commission on People with Disabilities. The agreement shall be signed by the recipient and by the Mayor, or, in the case of a City facility, by the Mayor and the responsible Department head. It shall be available for public inspection and copying."

41. Renumbered Subsection (13) entitled "Enforcement Procedure" of Section 3.72 entitled "Nondiscrimination Based On Disability In City Facilities And City-Assisted Programs And Activities" of the Madison General Ordinances is amended to read as follows:

~~"(14)~~ (13) Enforcement Procedure. If a recipient, after receiving a written determination of noncompliance, fails to meet the deadline established for compliance and remedy, and fails to enter into a voluntary compliance agreement, or fails to comply with such an agreement, the Director of ~~Affirmative Action~~ the Department of Civil Rights or his/her designee shall notify the City Attorney. The City Attorney shall proceed to terminate and, if she/he deems it necessary and appropriate, to recoup the recipient's financial assistance. The City Attorney may also seek other remedies. The City Attorney shall inform the recipient of the action proposed to be taken, the matters of fact and law asserted as the basis for the action, and shall inform the applicant that a hearing may be requested by notifying the City Clerk within fifteen (15) days. The City Attorney shall also attempt to negotiate a voluntary compliance agreement. Such an agreement shall remedy any violation of the rights of a complainant and shall assure elimination of the violation and the prevention of its recurrence. Such a voluntary compliance agreement shall be in writing, shall be signed by the Mayor, approved by the Commission on People with Disabilities, and shall be reported to the Common Council.

42. Renumbered Subsection (15) entitled "Hearing" of Section 3.72 entitled "Nondiscrimination Based On Disability In City Facilities And City-Assisted Programs And Activities" of the Madison General Ordinances is amended to read as follows:

~~"(16)~~ (15) Hearing. At the hearing, the Director of ~~Affirmative Action~~ the Department of Civil Rights or his/her designee shall have the burden to persuade the Committee that the recipient has violated this Section, or the provisions of a voluntary compliance agreement. Each party shall have the right to appear in person and by counsel, to call and examine all witnesses, and to introduce exhibits. The Committee shall determine both fact and law, and shall issue a written decision and order, including, in case it finds that the recipient has violated this Section, an appropriate remedy. The Committee's decision shall be a final administrative determination, subject to appeal as by law may be provided. The City Attorney may institute court action to enforce the Committee's order.

43. Renumbered Subsection (16) entitled "Enforcement Procedure for City Facilities" of Section 3.72 entitled "Nondiscrimination Based On Disability In City Facilities And City-Assisted Programs And Activities" of the Madison General Ordinances is amended to read as follows:

~~"(17)~~ (16) Enforcement Procedure for City Facilities. If a Department head, after receiving a written determination that a City facility for which she/he is responsible is not in compliance with this ordinance, fails to meet the deadline for compliance and remedy, fails to enter into a voluntary compliance agreement, or fails to comply with such an agreement, the Director of ~~Affirmative Action~~ the Department of Civil Rights or his/her designee shall notify the Commission on People with Disabilities, and the Mayor. The Commission on People with Disabilities shall submit to the Board of Estimates a written report on the noncompliance, and

such report shall contain a recommendation for action. The Mayor shall convene a special meeting of the Board of Estimates to consider the issue, and shall publish a notice at least twenty-one (21) days prior to the meeting. At the meeting, the Board shall hear the Department head, other City officials and employees, and members of the public. The meeting may be adjourned and reconvened as the Board may deem appropriate.

The meeting shall be considered legislative and not quasi-judicial and shall be conducted in open session. The Board of Estimates shall recommend a resolution of the issue to the Common Council for its approval."

44. Renumbered Subsection (17) entitled "Enforcement Procedure for Federally Funded City Facilities" of Section 3.72 entitled "Nondiscrimination Based On Disability In City Facilities And City-Assisted Programs And Activities" of the Madison General Ordinances is amended to read as follows:

~~"(18)~~(17)Enforcement Procedure for Federally Funded City Facilities. If a Department head, after receiving a written determination that a federally funded City facility for which s/he is responsible is not in compliance with this ordinance, fails to meet the deadline for compliance and remedy, fails to enter into a voluntary compliance agreement with the Director of ~~Affirmative Action~~ the Department of Civil Rights or his/her designee or his/her designee, or fails to comply with such an agreement, the Director of ~~Affirmative Action~~ the Department of Civil Rights or his/her designee shall promptly notify the federal agency, from which the funds are provided, of the complaint. The complaint will then be addressed in accordance with the federal agency's Rehabilitation Act of 1973 complaint procedure."

EDITOR'S NOTE:

Sections 3.23(10)(e) and 3.72(3) currently read as follows:

3.23(10)

"(e) Executive Director of the Equal Opportunities Commission. There is hereby created the position of Executive Director of the Equal Opportunities Commission who shall perform the directives of the Equal Opportunities Commission. The Executive Director of the Equal Opportunities Commission shall be an ex officio nonvoting member thereof. Effective March 1, 1989, the position of Executive Director of the Equal Opportunities Commission as it becomes vacant shall be filled according to Sec. 3.38(6)(f) of these ordinances. The Mayor shall consider the recommendation of the Equal Opportunities Commission on the selection of the Executive Director. The incumbent of the position as of the above date may enter into an employment contract as described in such section at his or her option."

3.72

"(3) Disability Rights Coordinator. There is hereby created the position of Disability Rights Coordinator, who shall work under the supervision of the Director of Affirmative Action. The Disability Rights Coordinator shall assist the Director of Affirmative Action in carrying out his/her responsibilities under this ordinance, and shall perform such other duties as the Director of Affirmative Action may direct, including the provision of staff support to the Commission on People with Disabilities."