

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

PRESENTED February 6, 2007
REFERRED Equal Opportunities Commission

Amending Sections 3.23(1), (3), (4)(a), (c), (d), (f)1.,(f)2., (g), (h), (i), (j), and (k), (5), (7), (8)(a), (b), (c), (d), (e), (l), and (m), (9)(c), and (10)b.1. and (b)2. of the Madison General Ordinances to modify the list of protected classes in the Equal Opportunities Ordinance to include persons who are members of a domestic partnership as defined in the ordinances.

RULES SUSPENSION
PUBLIC HEARING

Drafted by: Roger Allen

Date: January 19, 2007

SPONSORS: Mayor Cieslewicz; Aids. Konkel and Brandon

DRAFTER'S ANALYSIS: The amendments would add persons who are members of a domestic partnership to the list of protected classes under the ordinance. While some have opined that such persons are already receiving such protection as members of the protected classes "familial status" and "sexual orientation", the Madison Equal Opportunities Commission sought this explicit clarification in light of concerns that these protections are not clearly evident from the text of the ordinance itself. The amendments explicitly forbid discriminating against domestic partners in housing, employment, access to public accommodations/ amusements and city facilities. This ordinance is not intended to nor does it create a legal status identical or substantially similar to that of marriage for unmarried individuals.

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

1. Subsection (1) entitled "Declaration of Policy" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(1) Declaration of Policy. The practice of providing equal opportunities in housing, employment, public accommodations and City facilities and credit to persons without regard to sex, race, religion, color, national origin or ancestry, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, familial status, the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein, is a desirable goal of the City of Madison and a matter of legitimate concern to its government. Discrimination against any of Madison's citizens or visitors endangers the rights and privileges of all. The denial of equal opportunity intensifies group conflict, undermines the foundations of our democratic society, and adversely affects the general welfare of the community. Denial of equal opportunity in employment deprives the community of the fullest productive capacity of those of its members so discriminated against and denies to them the sufficiency of earnings necessary to maintain the standards of living consistent with their abilities and talents. Therefore, as a proper function of City government the City of Madison has provided in Section 3.58 for affirmative action in City employment to safeguard against discrimination. Denial of equal opportunity in housing compels individuals and families who are discriminated against to live in dwellings below the standards to which they are entitled. Denial of equal opportunity in public accommodations subjects those discriminated against to embarrassment and creates distress and unrest within the community. Denial of equal opportunities in credit to credit worthy customers deprives them of the right to secure desired goods and services. Provision for adequate safeguards against such discrimination is a proper and necessary function of City government. In order that the peace, freedom, safety and general welfare of all inhabitants

Approved as to form:

of the City may be protected and ensured, it is hereby declared to be the public policy of the City of Madison to foster and enforce to the fullest extent the protection by law of the rights of all of its inhabitants to equal opportunity to gainful employment, housing, credit and the use of City facilities and public accommodations without regard to sex, race, religion, color, national origin or ancestry, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, familial status, the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein. To fully effectuate this policy of promoting nondiscrimination, the City shall endeavor to eliminate all discrimination that may occur in its own employment, housing, and public accommodation practices and in the use of City facilities. By adopting Sec. 3.72 of these ordinances, the Common Council has attempted to make sure that City facilities and programs which receive City financial assistance are accessible to all persons, including persons with disabilities. The City will deal positively and constructively with all claims of discrimination filed against it through utilization of the procedures outlined in this ordinance."

2. Subsection (3) entitled "Credit" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(3) Credit. It shall be an unfair discrimination practice and unlawful and hereby prohibited for any creditor to discriminate against any person in any credit transaction because of sex, race, religion, color, national origin or ancestry, age, handicap, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, familial status, political beliefs, the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein."

3. Subdivision (a) of Subsection (4) entitled "Housing" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(a) To refuse to transfer, sell, rent or lease, to refuse to negotiate for the sale, lease, or rental or otherwise to make unavailable, deny or withhold from any person such housing because of sex, race, religion, color, national origin or ancestry, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, familial status, political beliefs, ~~or~~ the fact that such person is a student as defined herein, ~~or~~ the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law; or the fact that such a person is a member of a domestic partnership as defined herein, or;"

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

"(c) **To falsely represent that a dwelling is not available for inspection, sale, or rental because of discrimination because of sex, race, religion, color, national origin or ancestry, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, political beliefs, physical appearance, sexual orientation, familial status, the fact that a person is a student as defined herein; the fact that such a person is a member of a domestic partnership as defined herein. or other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety and welfare. A person who has received written notice from the Madison Police Department that a drug nuisance under Sec. 823.113, Wis. Stats., exists on property for which the person is responsible as owner may take action to eliminate the nuisance, including but not limited to, eviction of residents, provided such action is not a subterfuge to evade the provisions of this ordinance.**"

5. 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:

"(d) To discriminate against any person because of sex, race, religion, color, national origin or ancestry, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, political beliefs, physical appearance, sexual orientation, familial status, ~~or~~ the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein, in the terms, conditions or privileges pertaining to the transfer, sale, rental or lease of any housing, or in the furnishing of facilities or services in connection therewith, or in any other manner."

6. Paragraph 1. of Subdivision (f) of Subsection (4) entitled "Housing" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"1. Because of the sex, race, religion, color, national origin or ancestry, disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, familial status, or political beliefs of such person or of any person associated with him or her in connection with such loan or other financial assistance, or because of the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein; or

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

"2. Because of the sex, race, religion, color, national origin or ancestry, age, disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, familial status, or political beliefs of the present or prospective owners, lessees, tenants, or occupants of the housing for which such loan or other financial assistance is to be made or given, or because such present or prospective owner, lessee, tenant or occupant is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein."

7. Subdivision (g) of Subsection (4) entitled "Housing" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(g) For any person to post, print, broadcast or publish or cause to be posted, printed, broadcast or published, any notice or advertisement relating to the transfer, sale, rental or lease of any housing which expresses preference, limitation, specifications or discrimination as to sex, race, religion, color, national origin or ancestry, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, familial status, ~~or~~ the fact that a person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein."

8. Subdivision (h) of Subsection (4) entitled "Housing" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(h) For any person, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular sex, race, religion, color, national origin or ancestry, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, familial status, ~~or~~ status as students, or the fact that such a person is a member of a domestic partnership as defined herein.

In establishing a discriminatory housing practice under this section it is not necessary that there was in fact profit as long as profit was a factor for engaging in the blockbusting activity."

9. Subdivision (i) of Subsection (4) entitled "Housing" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(i) For any person to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service organization or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership or participation on account of sex, race, religion, color, national origin or ancestry, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, familial status, ~~or~~ the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein."

10. Subdivision (j) of Subsection (4) entitled "Housing" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(j) For any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of sex, race, religion, color, national origin or ancestry, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, familial status, ~~or~~ the fact that such person is a student as

defined herein, or the fact that such a person is a member of a domestic partnership as defined herein. As used in this subdivision the term "residential real estate related transaction" means any of the following:

1. The making or purchasing of loans or providing other financial assistance
 - a. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - b. Secured by residential real estate.
2. The selling, brokering, or appraising of residential real property.

Nothing in this section prohibits a person engaged in the business of making or furnishing appraisals of residential real property from taking into consideration factors other than sex, race, religion, color, national origin or ancestry, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, familial status, ~~or~~ the fact that a person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein."

11. Subdivision (k) of Subsection (4) entitled "Housing" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(k) In this subsection, prohibited discrimination includes discrimination because of the sex, race, religion, color, national origin or ancestry, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, familial status, ~~or~~ student status, or the fact that such a person is a member of a domestic partnership as defined herein of:

1. The buyer, renter, or applicant; or
2. A person residing in or intending to reside in a dwelling after it is sold, rented, or made available."

12. Subsection (5) entitled "Public Place of Accommodation or Amusement" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(5) Public Place of Accommodation or Amusement. All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation or amusement, as defined in this ordinance, without discrimination or segregation on the ground of sex, race, religion, color, national origin or ancestry, age, disability, marital status, domestic partnership status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs or the fact that a person is a student as defined herein, the fact that such a person is a member of a domestic partnership as defined herein or the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law. It shall be an unfair discrimination practice and unlawful and hereby prohibited:

- (a) For any person to deny to another, or charge another a different price from the rate charged others for the full and equal enjoyment of any public place of accommodation or amusement because of the sex, race, religion, color, national origin or ancestry, age, handicap, marital status, domestic partnership status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, ~~or~~ the fact that such person is a student as defined herein, the fact that such a person is a member of a domestic partnership as defined herein, or the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law. Organizations which operate public accommodations and which sell memberships based on family status shall provide the same benefits to domestic partnerships as are provided to other families.
- (b) For any person to directly or indirectly publish, circulate, display, mail or otherwise disseminate any written communication which s/he knows is to the effect that any of the facilities of any public place of accommodation or amusement will be denied to any person by reason of her/his sex, race, religion, color, national origin or ancestry, age, handicap, marital status, domestic partnership status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, ~~or~~ the fact that such person is a student as defined herein, the fact that such a person is a member of a domestic partnership as defined herein, or the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law, or that the patronage of a person is unwelcome, objectionable or unacceptable for any of these reasons.
- (c) Subsection (5) does not prohibit special services, rates or benefits provided to any person because she or he is fifty (50) years old or older."

13. Subsection (7) entitled "City Facilities" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(7) City Facilities. It shall be an unfair discrimination practice and unlawful and hereby prohibited for any person, public official, employee, agent, agency, authority, board, commission or committee of the City of Madison to deny any person, the use of City facilities or otherwise discriminate against any person in the use of City facilities because of sex, race, religion, color, national origin or ancestry, age, handicap, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, ~~or~~ the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein."

14. Subdivision (a) of Subsection (8) entitled "Employment Practices" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(a) For any person or employer individually or in concert with others to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to her/his compensation, terms, conditions, or privileges of employment, because of such individual's sex, race, religion, color, national origin or ancestry, age, handicap, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, ~~or~~ the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein. Provided, that an employer who is discriminating with respect to compensation in violation of this subsection, shall not, in order to comply with this subsection, reduce the wage rate of any employee."

15. Subdivision (b) of Subsection (8) entitled "Employment Practices" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(b) For any person or employer individually or in concert with others to limit, segregate, or classify his or her employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee, because of such individual's sex, race, religion, color, national origin or ancestry, age, handicap, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, ~~or~~ the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein."

16. Subdivision (c) of Subsection (8) entitled "Employment Practices" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(c) For any employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual on the basis of his or her sex, race, religion, color, national origin or ancestry, age, handicap, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, ~~or~~ the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein."

17. Subdivision (d) of Subsection (8) entitled "Employment Practices" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

(d) For any labor organization:

1. To exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his or her sex, race, religion, color, national origin or ancestry, age, handicap, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, ~~or~~ the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein.
2. To limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his or her status as an employee or as an applicant for employment, because of such individual's sex, race, religion, color, national origin or ancestry, age, handicap, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance,

sexual orientation, political beliefs, ~~or~~ the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein.

3. To cause or attempt to cause an employer to discriminate against an individual in violation of this section."

18. Subdivision (e) of Subsection (8) entitled "Employment Practices" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(e) For any person or employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on sex, race, religion, color, national origin or ancestry, age, handicap, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, ~~or~~ the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, age, handicap, arrest or conviction record or national origin when religion, sex, age, handicap, or national origin is a bona fide occupational qualification for employment or when an employer may lawfully consider or rely upon such arrest or conviction record pursuant to Sections 3.23(8)(i)3. through 3.23(8)(i)6., M.G.O."

19. Subdivision (l) of Subsection (8) entitled "Employment Practices" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(l) Notwithstanding any other provision of this section, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity, or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of sex, race, religion, color, national origin or ancestry, age, handicap, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, ~~or~~ the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein."

20. Subdivision (m) of Subsection (8) entitled "Employment Practices" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(m) Nothing contained in this section shall be interpreted to require any employer, employment agency or labor organization to grant preferential treatment to any individual or to any group because of the sex, race, religion, color, national origin or ancestry, age, handicap, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, ~~or~~ the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein."

21. Subdivision (c) of Subsection (9) of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"(c) For any person or entity subject to regulations under this ordinance to engage in any acts prohibited in Sec. 3.23 et seq of the Madison General Ordinances against any individual because of the sex, race, religion, color, national origin or ancestry, age, disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, or political beliefs of any person associated with that individual, ~~or~~ the fact that any person associated with that individual is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein."

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

- "1. To study the existence, character, causes and extent of the denial of equal opportunity because of sex, race, religion, color, national origin or ancestry, age, disability, marital status, source of income, arrest record or

conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, a the fact that a person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein, in the City of Madison."

23. Paragraph 2. of Subdivision (b) of Subsection (10) entitled "Equal Opportunities Commission and Equal Opportunities Division" of Section 3.23 entitled "Equal Opportunities Ordinance" of the Madison General Ordinances is amended to read as follows:

"2. To informally recommend solutions to individual problems that may arise which involve the denial of equal opportunities because of sex, race, religion, color, national origin or ancestry, age, disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, ~~or~~ the fact that such person is a student as defined herein, or the fact that such a person is a member of a domestic partnership as defined herein."