

LEGISTAR # 37017 – VERSION 1

DRAFTER'S ANALYSIS: This ordinance amendment adds atheism as a protected class in the areas of employment, housing, and public accommodations.

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

1. Subsection (1) entitled "Declaration of Policy" of Section 39.03 entitled "Equal Opportunities Ordinance" of the Madison General Ordinance is amended to read as follows:

"(1) Declaration of Policy. The practice of providing equal opportunities in housing, employment, public accommodations and City facilities is a desirable goal of the City of Madison and a matter of legitimate concern to its government. Discrimination against any of Madison's residents 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.

The practice of providing equal opportunities in employment to persons without regard to sex, race, religion or atheism, color, national origin or ancestry, citizenship status, age, handicap/disability, marital status, source of income, arrest record, conviction record, credit history, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, familial status, student status, domestic partner status, receipt of rental assistance, the fact that the person declines to disclose their social security number, or unemployment status is a desirable goal of the City of Madison and a matter of legitimate concern to its government. As a proper function of City government the City of Madison has provided in Sec. 39.02 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. The practice of providing equal opportunities in housing to persons without regard to sex, race, religion or atheism, color, national origin or ancestry, citizenship status, age, handicap/disability, marital status, source of income, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, familial status, student status, domestic partner status, receipt of rental assistance, the fact that the person declines to disclose their social security number, unemployment or status as a victim of domestic abuse, sexual assault, or stalking is a desirable goal of the City of Madison and a matter of legitimate concern to its government.

Denial of equal opportunity in public accommodations subjects those discriminated against to embarrassment and creates distress and unrest within the community. The practice of providing equal opportunities in public accommodations to persons without regard to sex, race, religion or atheism, color, national origin or ancestry, citizenship status, age, handicap/disability, marital status, source of income, arrest record, conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, genetic identity, political beliefs, familial status, student status, domestic partner status, receipt of rental assistance, the fact that the person declines to disclose their social security number, or unemployment status is a desirable goal of the City of Madison and a matter of legitimate concern to its government. 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 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, and the use of City facilities and public accommodations.

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. 39.05 of these ordinances, the Common Council has attempted to make sure that City facilities and programs that 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. Subdivision (c) of Subsection (2) entitled “Definitions” of Section 39.03 entitled “Equal Opportunities Ordinance” of the Madison General Ordinance is created to read as follows:

“(c) Atheism means the disbelief or lack of belief in the existence of God or gods.”

3. Current Subdivision (c) entitled “Arrest record” of Subsection (2) entitled “Definitions” of Section 39.03 entitled “Equal Opportunities Ordinance” of the Madison General Ordinance is hereby renumbered to Subdivision (b).

4. Subdivision (mm) entitled “Protected class membership” of Subsection (2) entitled “Definitions” of Section 39.03 entitled “Equal Opportunities Ordinance” of the Madison General Ordinance is amended to read as follows:

“(mm) Protected class membership means a group of natural persons, or a natural person, who may be categorized because of their ability to satisfy the definition of one or more of the following groups or classes: sex, race, religion or atheism, color, national origin or ancestry, citizenship status, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, genetic identity, political beliefs, familial status, student, domestic partner, or receipt of rental assistance.”

5. Subdivision (e) of Subsection (8) entitled “Employment Practices” of Section 39.03 entitled “Equal Opportunities Ordinance” of the Madison General Ordinance 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 any protected class membership, unemployment or credit history or the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion or atheism, sex, age, handicap, arrest or conviction record or national origin when religion or atheism, 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 39.03(8)(i)3. through 39.03(8)(i)6., MGO.”

6. Subdivision (h) entitled “Religion; Exceptions and Special Cases” of Subsection (8) entitled “Employment Practices” of Section 39.03 entitled “Equal Opportunities Ordinance” of the Madison General Ordinance is amended to read as follows:

“(h) Religion or Atheism; Exceptions and Special Cases.

1. Employment discrimination because of religion or atheism includes, but is not limited to, refusing to reasonably accommodate an employee’s or prospective employee’s religious observance or practice unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer’s program, enterprise or business.
2. It is not employment discrimination because of religion or atheism for a religious or atheist association not organized for private profit or an organization or corporation which is primarily owned or controlled by such religious or atheist association to give preference to an applicant or employee who is a member of the same or a similar religious denomination or atheist association, in hiring or promotion to an instructional or policy-making position, including but not limited to the position of chaplain or counselor.

3. It is not employment discrimination because of religion for a fraternal as defined in Sec. 614.01(1) Wisconsin Statutes, to give preference to an employee or applicant who is a member or is eligible for membership in the fraternal, with respect to hiring to or promotion to the position of officer, administrator or salesperson.”