

**CHAPTER 31
FAIR HOUSING**

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31.01 TITLE. This ordinance may be cited as the Dane County Fair Housing Ordinance.

31.02 INTENT. It is the intent of this chapter to render discrimination in housing unlawful. It is the declared policy of the County of Dane that all persons shall have an equal opportunity for housing regardless of race, gender, age, religion, color, national origin, ancestry, marital status, domestic partnership status, family status, mental illness, disability, physical appearance, lawful source of income, receipt of housing or rental assistance, student status, arrest or conviction record, sexual orientation, military discharge status, political beliefs, status as a victim of domestic abuse as defined in sec. 813.12(1)(am), Wis. Stats., or the person is associated with a tenant union. This chapter shall be deemed an exercise of the police powers of the County of Dane for the protection of the welfare, health, peace, dignity and human rights of the people of this county, and as a fulfillment of the legislative directive of sec. 66.1011, Wis. Stats.

[History: am., OA 20, 1992-93, pub. 12/30/92; am., OA 11, 2001-02, pub. 11/21/01; am., Sub. 4 to OA 22, 2008-09, pub. 09/18/09; am., OA 5, 2012-13, pub. 06/20/12; am., 2015 OA-15, pub. 09/17/15.]

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

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

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

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

(4) *Discriminate* and *discrimination* mean to segregate, separate, exclude or treat any persons unequally because of race, gender, age, religion, color, national origin, ancestry, marital status, domestic partnership status, family status, mental illness, physical condition, appearance, lawful source of income, receipt of housing or rental assistance, student status, arrest or conviction record, sexual orientation, military discharge status, political beliefs, status as a victim of domestic abuse as defined in sec. 813.12(1)(am), Wis. Stats., and association with or formation of a tenant union in apartments or mobile home parks or communities.

(5) *Domestic partnership status* means being in a relationship with an adult of the same or opposite sex with whom the person seeking to rent or purchase housing is living with in a non-marital committed relationship and with whom he or she intends to share a common residence and responsibility for each other's common welfare. Registration of a Declaration of Domestic Partnership in conformance with Chapter 60, Dane Co. Ords., or other similar domestic registry is *prima facie* evidence of domestic partnership status.

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

(a) A person is pregnant.

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

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

(d) A person's household includes one or more adults or minor children in his or her legal custody or physical placement or with whom he or she has visitation rights.

(e) A person's household includes one or more adults or minor children placed in his or her care under a court order, under a guardianship or with the written permission of a parent or other person having legal custody of the adult or minor child.

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

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

(8a) *Lawful source of income* is given the same meaning as defined in Wis. Admin. Code DWD § 220.02.

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

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

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

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

(12a) *Receipt of rental or housing assistance* means the receipt of any form of financial contribution from a third party for the purposes of creating or keeping affordable housing for tenants, purchasers, or other potential housing recipients, including but not limited to, assistance provided pursuant to Title 42, United States Code, section 1437f (commonly known as the "Section 8" housing program), the HOME Partnership Program, or the Community Development Block Grant program.

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

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

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

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

[History: (2) am. and (6) cr., OA 20, 1992-93, pub. 12/30/92; (2) am. and (7) and (8) cr., OA 11, 2001-02, pub. 11/21/01; (2) am., Sub. 1 to OA 7, 2006-07, pub. 09/22/06, eff. 04/01/07; 31.03 rep. & recr., Sub. 4 to OA 22, 2008-09, pub. 09/18/09; (4) am., OA 5, 2012-13, pub. 06/20/12; (4) am., (8a) and (12a) cr., 2015 OA-15, pub. 09/17/15.]

[31.04 - 31.09 reserved.]

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

(1) by refusing to sell, lease, finance or contract to construct housing or by refusing to discuss the terms thereof;

(2) by refusing to permit or to falsely represent that a dwelling is not available for inspection or exacting different or more stringent price, terms or conditions for the sale, lease, financing or rental of housing;

(3) by refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such a lot;

(4) by publishing, circulating, issuing or displaying, or causing to be published, circulated, issued or displayed, any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of housing, which states or indicates any

preference or discrimination in connection with housing;

(5) for a person in the business of insuring others against hazards, to refuse to enter into, or to exact different terms, conditions or privileges with respect to a contract for insurance against hazards to a dwelling;

(6) by refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant; or

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

[History: (2) and (4) am., OA 12, 2001-02, pub. 11/21/01; (7) am., Sub. 4 to OA 22, 2008-09, pub. 09/18/09.]

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

(a) on the basis of age in relation to housing designed to meet the needs of elderly individuals;

(b) on the basis of physical condition or mental illness in relation to housing designed specifically to meet the needs of persons with physical impairments or developmental disabilities;

(c) on the basis of student status in relation to housing devoted to meeting the needs of students;

(d) on the basis of age with respect to any person less than 18 years old who is seeking to purchase, lease, finance or construct housing; or

(f) on the basis of gender where such housing is devoted exclusively to members of one sex.

(2) It is not discrimination based on family status to comply with any federal, state or local government restrictions relating to the maximum number of occupants permitted to occupy a dwelling unit.

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

[History: am., OA 11, 2001-02, pub. 11/21/01; (1)(e) am. and (3) cr., Sub. 4 to OA 22, 2008-09, pub. 09/18/09; (1)(d) am., (1)(e) rep., 2015 OA-15, pub. 09/17/15.]

31.12 INTERFERENCE WITH RIGHTS PROHIBITED.

No person may coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right granted or protected by this chapter, or with any person who has aided or encouraged another person in the exercise of any right granted or protected by this chapter.

31.13 INDUCEMENT OF PANIC SALES. (1)

No person may induce or attempt to induce any person to sell, rent or lease any dwelling by representations regarding the present or prospective entry into the neighborhood of a person or persons of a particular race, gender, age, religion, color, national origin, ancestry, marital status of the person maintaining a household, family status, mental illness, physical condition, appearance, lawful source of income, student status, arrest or conviction record, sexual orientation, military discharge status, or political beliefs, or by representations to the effect that such present or prospective entry will or may result in:

(a) the lowering of real estate values in the area concerned;

(b) a deterioration in the character of the area concerned;

(c) an increase in criminal or antisocial behavior in the area concerned; or

(d) a decline in the quality of the schools or other public facilities serving the area.

[History: (1) am., OA 20, 1992-93, pub. 12/30/92; (1) am., OA 11, 2001-02, pub. 11/21/01.]

[31.15 History: cr., Sub. 4 to OA 22, 2008-09, pub. 09/18/09; 31.15 repealed in its entirety, 2015 OA-15, pub. 09/17/15.]

[31.14 – 31.19 reserved.]

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

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

(2) Within 30 days after receipt of a verified complaint, the corporation counsel shall make a

determination as to whether the complaint states a claim under this chapter.

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

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

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

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

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

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

[History: (8) cr., Sub. 1 to OA 28, 1999-2000, pub. 06/27/00, eff. 11/15/00; 31.20 am., Sub. 4 to OA 22, 2008-09, pub. 09/18/09.]

31.21 PRIVATE RIGHTS RESERVED.

Nothing in this chapter shall limit an individual's

right to maintain a private right of action to enforce his or her statutory or constitutional rights and privileges.

31.22 RIGHTS OF OWNER OR AGENT.

Nothing in this chapter shall limit the right of an owner or agent to require that any person who seeks to buy, rent or lease housing supply references or information concerning financial status.

31.23 ACCESSIBILITY OF PHYSICALLY IMPAIRED.

The fact that certain housing is not accessible to the physically impaired shall not, by itself, constitute discrimination on the basis of physical condition.

31.24 WRITTEN REASONS FOR DENIAL OF TENANCY.

(1) All applications for residential tenancy shall contain the following question in writing in a prominent place on the application: "Do you wish to receive a written explanation of the denial of tenancy? Yes ___ No ___."

(2)(a) Unless the applicant has indicated on the application that s/he does not want to receive a written explanation of a denial of tenancy, the lessor or any person authorized to enter into rental agreements on behalf of the lessor, shall provide any applicant who is denied tenancy with a written statement of reasons for the denial of tenancy as required by sub. (4).

(b) If the applicant has indicated s/he does not want to receive a written explanation, the applicant may request a written explanation of a denial within 30 days and the lessor shall provide the statement as required by sub. (4).

(3) A lessor that decides not to renew a tenant's lease at the expiration of the lease term or terminates a periodic tenancy or tenancy at will, shall provide the affected tenant with a notice of non-renewal as required by sub. (4).

The notice shall be served at least 60 days prior to the expiration of the lease term unless the term is shorter than 60 days, which shall require a notice compliant with Wis. Stat. § 704.19.

(4)(a) In denying an initial application for tenancy or non-renewal of a lease at the expiration of a lease term or a tenancy period or terminating a tenancy at will, the lessor shall furnish the applicant or tenant a written statement of the reasons tenancy was denied or terminated.

(b) The statement shall include the reason(s) for the action, a description of the information supporting the decision, and identification of all sources of the relied-upon information. The lessor shall also furnish the applicant with a copy of the lessor's tenant selection process.

(c) The written notification required by sub. (a) shall be personally delivered or mailed to the applicant within 3 days of the denial of tenancy.

(d) An application is deemed denied for the purpose of this section if no determination is made by the lessor within 21 days of the date the completed application is received by the lessor.

[History: 31.24 cr., Sub. 1 to OA 28, 1999-2000, pub. 06/27/00, eff. 11/15/00; 31.24 am., OA 44, 2012-13, pub. 05/01/13; 31.24 am., OA 11, 2013-14, pub. 07/31/13.]

[31.25 - 31.89 reserved.]

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

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

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

(b) Any person adjudged to have violated any provision of this chapter for the second time

within a five year period shall, for that second violation committed within the same five year period, forfeit an amount not to exceed \$10,000.

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

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

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

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

[History: (4) cr., Sub. 1 to OA 28, 1999-2000, pub. 06/27/00, eff. 11/15/00; 31.90 rep. & recr., Sub. 4 to OA 22, 2008-09, pub. 09/18/09.]

[31.91 - 31.94 reserved.]

31.95 SEVERABILITY. If any section, provision or portion of this chapter is adjudged invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

[31.96 - 31.98 reserved.]

31.99 EFFECTIVE DATE. This ordinance shall become effective on January 1, 1988.

END OF CHAPTER