Legislation Details (With Text)

File #:	170093 **Version:** 2		
Type:	Ordinance	**Status:**	Passed
File created:	4/18/2017	**In control:**	COMMON COUNCIL
On agenda:		**Final action:**	9/26/2017
Effective date:			
Title:	A substitute ordinance relating to the equal rights commission.		
Sponsors:	THE CHAIR		
Indexes:	EQUAL RIGHTS COMMISSION		
Attachments:	1. 168509 Memo Robinson ERC in peer cities, 2. Notice Published on 10-12-17		

Date	Ver.	Action By	Action	Result	Tally
4/18/2017	0	COMMON COUNCIL	ASSIGNED TO		
4/24/2017	0	JUDICIARY & LEGISLATION COMMITTEE	HEARING NOTICES SENT		
5/1/2017	0	JUDICIARY & LEGISLATION COMMITTEE	HELD TO CALL OF THE CHAIR	Pass	4:0
7/17/2017	1	CITY CLERK	DRAFT SUBMITTED		
7/24/2017	1	JUDICIARY & LEGISLATION COMMITTEE	HELD TO CALL OF THE CHAIR	Pass	4:0
9/18/2017	1	JUDICIARY & LEGISLATION COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
9/26/2017	1	COMMON COUNCIL	SUBSTITUTED	Pass	15:0
9/26/2017	1	COMMON COUNCIL	PASSED	Pass	15:0
10/5/2017	1	MAYOR	SIGNED		
10/12/2017	1	CITY CLERK	PUBLISHED		

170093
SUBSTITUTE 2

THE CHAIR
A substitute ordinance relating to the equal rights commission.
109 rc
340-1-5 rp
This ordinance repeals and recreates chapter 109 of the code reconstituting the city's equal rights commission.

The role and procedures of the commission in enforcing prohibitions against discrimination in the city are retained for those matters and complaints that are not subject to federal or state jurisdiction and enforcement. Matters and complaints investigated and prosecuted by the commission are subject to the same procedural requirements as previously codified.

The commission shall monitor and review the equal rights climate within the city and make

recommendations to the mayor and the common council to promote social and economic equity for all residents of the city.

This ordinance provides for cooperation among city departments and the commission, to also identify those programs and activities of the city that provide opportunities for the promotion of equal rights, to evaluate city efforts related to equal rights, to recognize accomplishments, and to develop recommendations for extending and improving equal rights and opportunities in city programs and activities.

The department of administration shall provide staffing and support for the activities of the commission.

This ordinance increases the number of members of the equal rights commission from 7 to 9. Furthermore, this ordinance adds domestic partners, victims of domestic abuse or sexual assault, HIV-positive persons, and homeless individuals to the existing list of protected persons and also provides for protection on the basis of genetic identity.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Chapter 109 of the code is repealed and recreated to read:

CHAPTER 109
EQUAL RIGHTS

TABLE

109-1	Findings; Declaration of Policy
109-3	Purpose
109-5	Definitions
109-7	Equal Rights Commission
109-9	Discrimination Prohibited
109-11	Reporting
109-13	Investigations
109-15	Probable Cause of Violation
109-17	Hearing Procedure
109-19	Determinations; Commission Actions
109-21	Settlements
109-23	Public Inspection of Records
109-25	Forfeiture
109-27	Enforcement

109-1. Findings; Declaration of Policy. 1. A vibrant, livable, successful and productive city is made possible by the talents, contributions and well-being of its diverse residents. It is the policy of the city that the equal rights of all those who live and work in the city are ensured, and that equal rights and equal opportunities within the context of the larger commercial and social fabric of the Milwaukee community are promoted.

2. The practice of providing equal opportunities to persons without regard to sex, race, religion, color,

national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, victimhood of domestic abuse or sexual assault, past or present membership in the military service, HIV status, domestic partnership, genetic identity, homelessness, familial status, or an individual's affiliation or perceived affiliation with any of these categories, is a desirable goal of the city and a matter of legitimate concern to its government. Discrimination against any city resident endangers the rights and privileges of all. The denial of equal opportunity intensifies group conflict, undermines the foundations of democratic society and adversely affects the general welfare of the community. Denial of equal opportunity in housing compels individuals and families who are discriminated against to live in housing below the standards to which they are entitled. 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 for maintaining the standards of living consistent with their abilities and talents.

3. Provision for adequate safeguards against discrimination is a proper and necessary function of city government. To protect the health, safety and general welfare of all inhabitants of the city, and all persons employed within the city, it is declared to be the public policy of this city to foster and enforce to the fullest extent the protection by law to equal opportunity without regard to sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, victimhood of domestic abuse or sexual assault, past or present membership in the military service, HIV status, domestic partnership, genetic identity, homelessness, familial status, or an individual’s affiliation or perceived affiliation with any of these categories, and workplace free from discrimination. To fully effectuate this policy of promoting nondiscrimination, the city shall endeavor to eliminate all discrimination that may occur in the city.

4. Where applicable, this chapter shall be interpreted and applied consistently with the provisions of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. sections 3601, et seq., 24 C.F.R. sections 100, et seq., and ss. 66.1011, 106.50 and 111.31, et. seq., Wis. Stats., and 29 C.F.R. 1600, et. seq., Title VII of the Civil Rights Act of 1964, as amended, 42 USC 2000a, et. seq., and 106.52 Wis. Stats. and any successor provisions of state and federal law.

109-3. Purpose. Each sector of society engaged in the life of the city has a role in promoting equal rights, equity, and a social fabric free of discrimination. City government is uniquely positioned to assume a primary leadership role in these efforts. To achieve this leadership objective, each department, agency and unit of city government shall be accountable for promoting social and economic equity for all residents of the city, and structuring its work so that the outcomes are directed toward social and economic equity for all residents.

109-5. Definitions. In this chapter:

1. COMMISSION means the equal rights commission.

2. CONCILIATION means the attempted resolution of issues raised by a complaint, or by the investigation of a complaint, through informal negotiations involving the aggrieved person, the respondent and the commission.

3. FAMILIAL STATUS means one or more individuals, who have not attained the age of 18 years, being domiciled with a parent or another person having legal custody of such individuals; or the designee of the parent or other person having such custody, with the written permission of the parent or other person. The protections afforded against discrimination on the basis of familial status shall

apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

4. DISABILITY means, with respect to a person, any of the following:

a-1. A physical or mental impairment which substantially limits one or more of the person's major life activities.

a-2. A record of having an impairment.

a-3. Being perceived as having an impairment.

b. Disability does not include current, illegal use of or addiction to a controlled substance. The behavioral manifestations of a mental disability may be taken into consideration in determining whether the applicant is qualified. A housing provider may consider a history of disruptive, abusive or dangerous behavior.

5. GENDER EXPRESSION means a person's external manifestations of gender, which may be expressed through name, pronouns, clothing, haircut, behavior, voice, body characteristics, or other means. A person’s gender expression may be the same or different from that associated with the person’s assigned sex at birth.

6. GENDER IDENTITY means a person’s internal sense of their gender. A person’s gender identity may be the same as or different from their assigned sex at birth.

7. GENETIC IDENTITY means the genetic information unique to an individual, including information regarding the individual’s genetic tests, the genetic tests of family members of the individual, the manifestation of a disease or disorder in family members of the individual, and any request for, or receipt of, genetic services service, or participation in clinical research which includes genetic services, by the individual or any family member of the individual.

8. HOMELESSNESS means the status of lacking housing, without regard to whether the individual is a member of a family. This includes having a primary residence during the night which is a supervised public or private facility that provides temporary living accommodations, or being a resident of transitional housing.

9. HOUSING means any building, structure or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied as a residence, home or place of habitation of one or more human beings, including a mobile home as defined in s. 66.0435, Wis. Stats., and a trailer as defined in s. 246-1-5 and any land which is offered for sale, lease or use as a site for a building, structure or part thereof intended or designed to be used or occupied as a residence, home or place of habitation of one or more human beings, including a mobile home park as defined in s. 66.0435, Wis. Stats., and a trailer house community as defined in s. 246-1-6.

10. MARITAL STATUS means the status of being married, separated, divorced, widowed or single.

11. PERSON means one or more individuals, labor organizations, employment agencies, corporations, partnerships, associations, cooperatives, legal representatives, mutual companies, joint -stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy or receivers

or other fiduciaries, and the agent or agents of any of the foregoing but, because of actual, potential or perceived conflicts of interest, shall not include the city of Milwaukee, the housing authority and the redevelopment authority of the city of Milwaukee, any agency of the city, or any other municipal, state or federal governmental body or any agent, officer or employee acting in the course of such employment.

12. PROTECTED PERSON means any individual intended to be protected from violations of prohibited discrimination under this chapter. This includes an individual's sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, victimhood of domestic abuse or sexual assault, past or present membership in the military service, HIV status, domestic partnership, genetic identity, homelessness, familial status, or an individual's affiliation or perceived affiliation with any of these categories.

13. PUBLIC PLACE OF ACCOMMODATION OR AMUSEMENT includes, but shall not be limited to, a place of business or recreation, lodging establishment, restaurant, tavern, barber, cosmetologist, aesthetician, electrologist, manicuring establishment, nursing home, clinic; hospital, cemetery, or any place where accommodations, amusement, goods, or services are available either free or for consideration.

14. SEXUAL ORIENTATION means the type of sexual, romantic, emotional or spiritual attraction one has the capacity to feel for some others, generally labeled based on the gender relationship between the person and the people to whom they are attracted.

15. SOURCE OF INCOME means income that is legally derived and that is subject to reasonable and good-faith efforts to verify the lawfulness of its derivation and includes moneys received from public assistance, pension and supplementary security income.

109-7. Equal Rights Commission. 1. There is established an equal rights commission consisting of 9 members, appointed by the mayor, subject to confirmation by the common council. A chair shall be elected from the membership of the commission at the first regular meeting of each calendar year by a majority of the members of the commission. Members shall be city residents, appointed from a representative cross-section of the community and shall continue to hold office only so long as they shall reside within the city.

2. Each member of the commission shall be appointed for a term of 3 years, except that 3 members initially appointed by the mayor shall serve for one year, and 2 members shall be appointed for a term of 2 years. Each member shall hold office until a successor is appointed and confirmed. A vacancy occurring other than by expiration of the member's term shall be filled by appointment of the mayor and confirmation by the common council for the unexpired portion of the term.

3. Four members shall constitute a quorum for conducting business, and a majority of members present shall be required to adopt or approve any action of the commission.

4. The commission shall:

a. Meet not less than 4 times annually for monitoring the employment, contracting, and program activities of the city, prepare and provide timely reports to the mayor and common council on efforts to promote equal rights, equal opportunities, positive community relations, and to eliminate discrimination and inequities in city government and the city.

b. Receive complaints alleging violation of this chapter and pursue remedies by means of mediation, conciliation, litigation or other appropriate means supported by findings of fact and conclusions of law. An aggrieved person may, not later than 300 days after an alleged discriminatory practice has occurred, file a written complaint to the commission alleging a discriminatory practice or violation. The commission shall not accept or investigate any complaint unless it is in writing and verified by the complainant.

c. Not have or exercise jurisdiction over any complaint that sets forth or states any facts or allegations that are the subject matter within the jurisdiction of any state or federal equal rights agency, including, but not limited to the U.S. Equal Employment Opportunity Commission or the Wisconsin Department of Workforce Development, regardless of whether the complainant has chosen to file with that agency.

d. Render from time to time, but not less than once a year, a written report of its activities and recommendations to the mayor and the common council.

e. Adopt rules and regulations consistent with this chapter and the laws of the state to carry out the policy and provisions of this chapter, and the powers and duties of the commission.

f. Issue subpoenas under s. 885.01(4), Wis. Stats., or its successor provisions, to assist in the execution of its duties.

5. The department of administration shall assign staff and provide support to the commission as necessary and appropriate to assist the commission in fulfilling its mission and responsibilities.

6. The department of administration shall assist the commission by staffing its meetings, drafting reports and other documents, maintaining commission documents, initial processing of complaints, and providing resources necessary for the proper hearing of complaints.

109-9. Discrimination Prohibited. No person may engage in any act of discrimination with respect to housing, employment or public place of accommodation or amusement against any protected person. No person, employer, or public place of accommodation or amusement may:

1. HOUSING. In regard to housing:
a. Make or cause to be made any written or oral inquiry or record concerning the nature of any prospective occupants or tenants in a protected class of such housing, or persons associated with them, unless such inquiry or record is necessary for compliance with applicable local, state, or federal law.

b. Falsely represent that a dwelling is not available for inspection, sale, or rental because of such person's protected class membership. A person who has received written notice from the police department that a drug nuisance under s. 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 chapter.

c. Discriminate against any person because of such person's protected class membership, 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.

d. For profit, 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 protected class membership.

e. 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 discriminate against any person in the terms or conditions of such access, membership or participation on account of the person's protected class membership.

f. Discriminate against any person in making available a residential real estate-related transaction, or in the terms or conditions of a residential real estate-related transaction, because of a person's protected class membership.

g. Refuse to permit, at the expense of the person in a protected class, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, provided:

g-1 In the case of a rental, a landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained; or

g-2 A landlord may require an escrow account where it is necessary in order to ensure, with reasonable certainty, that funds will be available to pay for restoration at the end of the tenancy. The landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest-bearing escrow account over a reasonable period, not to exceed the length of the lease, a reasonable amount of money, not to exceed the cost of restoration. The interest in any such account shall accrue to the benefit of the tenant. Failure by the landlord to utilize escrow funds for restoration of the premises within 90 days of the termination of the tenancy constitutes a forfeiture of the escrow fund, which shall revert to the tenant.

g-3 A landlord may not require further restoration if the modifications satisfy either uniform federal accessibility standards or s. SPS 352.04, Wis. Admin. Code.

g-4 No landlord may require the restoration of modifications made to public and common use portions of the premises if the modifications were necessary to make those portions readily accessible to and usable by persons in a protected class.

h. Refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford persons in a protected class equal opportunity to use and enjoy a dwelling.

i. In connection with the design and construction of a covered multifamily dwelling as defined in 24 C.F.R. s. 100.201, fail to design and construct those dwellings in such a manner that:

i-1 The dwelling has at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.

i-2 With respect to a dwelling with a building entrance on an accessible route, the public use and common use portions of the dwelling are readily accessible to and usable by persons in a protected class.

i-3 All premises within the dwelling contain the following features of adaptive design:

i-3-a Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

i-3-b Reinforcements in bathroom walls to allow installation of grab bars.

i-3-c Usable kitchens and bathrooms in which an individual in a wheelchair can maneuver.

2. PUBLIC PLACE OF ACCOMMODATION OR AMUSEMENT. In regard to a public place of accommodation or amusement:

a. Deny to another, or charge another a different price from the rate charged to others, the full and equal enjoyment of any public place of accommodation or amusement because of the person's protected class membership. An organization which operates a public place of accommodation or amusement and which sells memberships based on family status shall provide the same benefits to those of a protected class as are provided to other families.

b. Directly or indirectly publish, circulate, display, mail or otherwise disseminate any written communication which the person so doing 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 protected class membership or that the patronage of a person is unwelcome, objectionable or unacceptable for any of these reasons.

c. Subject an individual, on the basis of a protected class of the individual, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

d. Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, deny an individual in a protected class the opportunity to participate in programs or activities that are not separate or different.

e. Directly or through contractual or other arrangements utilize standards or criteria or methods of administration which have the effect of discrimination on the basis of a protected class.

3. EMPLOYMENT. In regard to employment:

a. Discharge, fail or refuse to hire, or harass any individual, or otherwise discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, because of the individual's protected class membership.

b. Limit, segregate, or classify 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 the individual's protected class membership.

c. Fail or refuse to refer for employment, or otherwise to discriminate against, any individual on the basis of his or her protected class membership.

d. Refuse to reasonably accommodate an employee's or prospective employee's protected class unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise or business.

4. EXCEPTIONS. a. It is not a violation of this ordinance to restrict occupancy in a dwelling to persons in a protected class or to provide housing for protected persons as provided under any state or federal program that is specifically designed and operated to assist persons in a protected class, as defined in the state or federal program.

b. Notwithstanding any other provision of this section, it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer or a labor organization to admit or employ any individual in those certain instances where sex, age, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

c. It is not employment discrimination to deny or to refuse to issue a license or permit issued under the this code if the person applying for or holding the license or permit has a pending criminal charge the circumstances of which substantially relate to the circumstances of the licensed activity or permit; or has been convicted of a felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the licensed activity, and has not been pardoned for that felony, misdemeanor, or other offense.

d. It is not employment discrimination to refuse to employ a person in a business licensed under s. 440.26, Wis. Stats., or as an employee specified in s. 440.26(5)(b), Wis. Stats., if the person has been convicted of a felony and has not been pardoned for that felony.

e. It is not employment discrimination to refuse to employ as an installer of burglar alarms a person who has been convicted of a felony and has not been pardoned.

f. Nothing contained in this section shall be interpreted to prohibit any employer from considering an individual's less-than-honorable discharge in cases where the circumstances of the discharge are substantially related to the circumstances of the particular job. However, in no case may an employer consider a less-than-honorable discharge that was made administratively and not pursuant to a court martial.

g. 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 protected class membership.

h. 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

protected class.

109-11. Reporting. 1. DEPARTMENTS. The department of administration, with the cooperation of all departments, shall regularly provide the commission with information of efforts and activities undertaken across city government to achieve the leadership objectives described in s. 109-1 to 3. This information shall from time to time identify programs and activities conducted by the city to promote equal rights and equal opportunity both within city government and goals, challenges and strategies. The department of administration shall provide the commission with information about activities and accomplishments with respect to the requirements in s. 350-203. Upon request of the commission, other city departments, agencies and units shall report to the commission orally, in writing, or both, at the pleasure of the commission.

2. MAYOR AND COMMON COUNCIL. The commission shall provide a written communication to the mayor and the common council, not less than annually, summarizing the activities of the commission and the progress of the city in meeting the leadership objectives specified in this chapter. This communication shall further include an examination of those conditions in the city at large which contribute to or detract from equal rights and an environment free from discrimination. The communication shall provide recommendations for furthering the purposes and objectives provided in this chapter.

109-13. Investigations. Pursuant to any investigation or hearing conducted under this chapter, the commission shall:

1. Require any person to submit in writing reports and answers to questions relevant to the proceedings conducted under this chapter as the commission may prescribe, submission to be made within the period and under oath or otherwise as the commission may determine.

2. Administer oaths and to require, by subpoena issued by it, the attendance and testimony of witnesses and the production of any documentary evidence relating to the investigation or hearing being conducted. Issuance of a subpoena requires action by the commission in accordance with s. 109-7-4-f.

3. Order testimony to be taken by deposition before any individual who is designated by the commission and has the power to administer oaths, and, in such instances, to compel testimony and the production of evidence in the same manner as authorized by sub. 2.

4. Pay witnesses the same fees and mileage as are paid in like circumstances by the courts of this state.

109-15. Probable Cause of Violation. At the conclusion of its investigation, the commission shall, in preliminary written findings of fact and conclusions based thereon, make a determination of whether probable cause exists to believe that a violation of this chapter has occurred. If the commission determines that no probable cause exists, it shall immediately send written notice of the determination to the accused and to the complainant. If the commission determines that there is probable cause for believing that a violation of this chapter has been committed, its preliminary findings of fact and conclusions shall contain an order setting a date for hearing to determine whether a violation of this chapter has occurred. The commission shall serve the order upon the accused. A hearing ordered under this subsection shall be commenced within 30 days after the date it is ordered unless the accused petitions for and the commission consents to a later date. Prior to any hearing

powered by Legistar™

ordered under this subsection, the parties shall be entitled to full discovery rights, including adverse examination of witnesses who will testify at the hearing at a reasonable time before the date of the hearing.

109-17. Hearing Procedure. 1. During any investigation and during any hearing which is conducted to determine whether a violation of this chapter has occurred, the parties may be represented by counsel of their own choosing, and the parties or their representatives, if any, shall have an opportunity to examine all documents and records obtained or prepared by the commission in connection with the matter heard, to bring witnesses, to establish all pertinent facts and circumstances, to question or refute testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses. During any hearing conducted by the commission to determine whether a violation of this chapter has occurred, all evidence including certified copies of records which the commission considers shall be fully offered and made a part of the record in the proceedings. The parties shall be afforded adequate opportunity to rebut or offer countervailing evidence. Upon request of the parties, the commission shall issue subpoenas to compel the attendance of necessary witnesses.

2. In cases in where the commission deems it necessary, the commission shall appoint a hearing examiner to conduct hearings under this section. Any person whose name is mentioned or who is otherwise identified during a hearing being conducted by the commission and who, in the opinion of the commission, may be adversely affected thereby, may, upon request of the person or a representative of the person, or upon the request of any member of the commission, appear at the hearing to testify on his or her own behalf or have a representative appear to so testify, and the commission may permit any other person to appear and to testify at a hearing.

3. After the conclusion of the hearing the commission shall as soon as practicable begin deliberations on the evidence presented at the hearing and shall then proceed to determine whether the defendant has violated this chapter.

109-19. Determinations; Commission Actions. If the commission determines that no violation of this chapter has occurred, it shall immediately send written notice of the determination to the complainant and defendant. If the commission determines that a violation of this chapter has occurred, its findings of fact and conclusions may contain one or more of the following orders or recommendations:

1. An order requiring the defendant to conform his or her conduct to this chapter.

2. Fines in accordance with s. 109-25.

3. In the case of a licensee of the city, a recommendation of suspension or revocation of the license. The recommendation shall be submitted to the city clerk’s office.

109-21. Settlements. An action may be settled for such sum or terms as may be agreed upon between the applicable parties.

109-23. Public Inspection of Records. 1. Except as provided in sub. 2, all records in the possession of the commission are open to public inspection at all reasonable times.

2. Notwithstanding sub. 1, the following records in the commission's possession shall not be open for

public inspection:

a. Records obtained in connection with a request for an advisory opinion other than summaries of advisory opinions that do not disclose the identity of individuals requesting such opinions or organizations on whose behalf they are requested. The commission may, however, make such records public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person shall be deemed to have waived the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the commission in connection with the request for an advisory opinion.

b. Records obtained or prepared by the commission in connection with an investigation, except that the commission shall permit inspection of records that are made public in the course of a hearing by the commission to determine if a violation of this chapter has occurred. Whenever the commission refers such investigation and hearing records to the appropriate party under s. 109-19, they may be made public in the course of prosecution initiated under this chapter.

109-25. Forfeiture. 1. Any person who willfully violates this chapter or any lawful order of the commission under this chapter shall, for the first violation, forfeit not less than $500 nor more than $5,000.

2. For each successive violation within 5 years of having been adjudged to be in violation of this chapter or any lawful order of the commission under this chapter, the person shall forfeit not less than $1,000 nor more than $10,000.

109-27. Enforcement. 1. Whenever in the judgment of the commission, the enforcement of a forfeiture imposed for violation of this chapter or of an order under this chapter is necessary, the commission shall refer the matter in writing to the city attorney for enforcement in the name of the city or the commission.

2. Upon referral, the city attorney may seek enforcement of this chapter in a court of competent jurisdiction and as provided in ss. 66.0114 and 66.1011(2), Wis. Stats., or otherwise.

3. At any time after a complaint is filed, the commission may request the city attorney to file a petition in circuit court, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including 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.

Part 2. Section 340-1-5 of the code is repealed.

APPROVED AS TO FORM

_____

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

_____
Office of the City Attorney
Date: _____

DEPARTMENT OF ADMINISTRATION
LRB167642-16
Adam Wickersham
07/14/2017