



Legislation Text

File #: 070370, **Version:** 2

070370 SUBSTITUTE 2

ALD. D'AMATO

A substitute ordinance clarifying and updating provisions of the code relating to discrimination in housing, employment, and the provision of services or charges for services of certain city licensees.

84-5-1-0	am	
84-5-2	am	
109-1-1	am	
109-3-6	am	
109-3-11	rn	
109-3-11	cr	
109-3-12	rn	
109-3-13	rn	
109-3-14	rn	
109-3-15	rn	
109-3-16	rn	
109-3-17	rn	
109-3-18	rn	
109-3-19		rn
109-3-20		rn
109-5-0	am	
109-5-5-b	am	
109-5-9-0	am	
109-9-0	am	
109-9-8	am	
109-11-2	am	
109-11-3	am	

This ordinance prohibits discrimination by certain licensees and employers based upon the past or present membership of an individual in the armed services and extends the prohibitions of the code against housing discrimination to discrimination based upon past or present membership in the military service.

The ordinance provides protections against discrimination on the basis of a person's gender identity or expression, and defines the term, "gender identity or expression," to mean a gender-related identity, appearance, expression or behavior of an individual, regardless of the individual's assigned sex at birth.

The ordinance prohibits discrimination against persons because they are affiliated with, or perceived to be affiliated with, an otherwise protected individual.

The ordinance eliminates the exclusion of city employees from the protections of the housing and employment discrimination chapter of the code.

Whereas, The protections afforded to members of the military service to be free from discrimination in accommodations and services provided by businesses licensed by the city should rightly apply to past as well as present members of the military service; and

Whereas, Protections afforded to individuals to be free of discrimination on the basis of sex and sexual orientation have been complemented and extended by jurisdictions across the nation to assure that persons who are transgendered, or who have a gender identity or gender expression different from that traditionally associated with an assignment of gender to such persons at birth, are not discriminated against in employment, housing or other accommodations; and

Whereas, The city may prohibit discrimination in accommodations and employment consistent with its police powers in order to preserve the health, welfare and safety of the public, and failure to extend these protections to persons discriminated against solely because of their affiliation, or perceived affiliation, with members of a protected classification results in the same harm to the social fabric, to commerce and to individuals and families that are caused by direct discrimination; and

Whereas, Section 66.1011, Wis. Stats., authorizes political subdivisions to enact ordinances prohibiting discrimination in housing that are more inclusive than the provisions of s. 106.50, Wis. Stats., which prohibit discrimination on the basis of sex and sexual orientation among other factors; and

Whereas, Persons employed by the City should be protected in the same manner as other members of the public with regard to employment discrimination; now, therefore

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

Part 1. Section 84-5-1-0 of the code is amended to read:

84-5. Discrimination by License Holders.

1. DISCRIMINATION PROHIBITION. No holder of any of the following licenses, permits or franchises issued by the city may willfully refuse services or add charges or require deposits not required of the general public under such licenses, permits or franchises because of sex, race, religion, color, national origin or ancestry, age, handicap, lawful source of income, marital status, sexual orientation, >>gender identity or expression,<<familial status[[-or]]>>,<< the fact that a person is a >>past or present << member of the military service, whether dressed in uniform or not>>,<< or because a person is affiliated, or perceived to be affiliated, with a protected individual<<:

Part 2. Section 84-5-2 of the code is amended to read:

2. DECLARATION REQUIRED. All applications submitted by persons seeking the licenses, permits or franchises listed in sub. 1 shall contain the following declaration: _____(name of applicant) shall not willfully refuse to provide those services offered under this license, permit or franchise, or add charges or required deposits not required of the general public because of race, color, sex, religion, national origin or ancestry, age, handicap, lawful source of income, marital status, sexual orientation, >>gender identity or expression,<< familial status or the fact that a person is > now or has been<< a member of the military service, whether dressed in uniform or not.

Part 3. Section 109-1-1 of the code is amended to read:

109-1. Declaration of Policy. 1. The practice of providing equal opportunities in housing and employment to persons without regard to sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation~~[[0f]]>>~~, gender identity or expression, past or present membership in the military service,~~<< familial status>>~~, or an individual's affiliation with, 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 to maintain the standards of living consistent with their abilities and talents. Provision for adequate safeguards against such discrimination is a proper and necessary function of city government. In order to protect the health, safety and general welfare of all inhabitants of 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 in housing and gainful employment without regard to sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation ~~[[0f]]>>~~, gender identity or expression, past or present membership in the military service,~~<< familial status>>~~, or an individual's affiliation with, or perceived affiliation with any of these protected 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 housing and employment in the city of Milwaukee.

Part 4. Section 109-3-6 of the code is amended to read:

109-3. Definitions.

6. EMPLOYEE does not include any individual employed by the person's parents, spouse or child, or any individual employed by 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]]>>~~government~~<<~~.

Part 5. Section 109-3-11 to 20 is renumbered 109-3-12 to 21.

Part 6. Section 109-3-11 of the code is created to read:

11. GENDER IDENTITY OR EXPRESSION means a gender-related identity, appearance, expression or behavior of an individual, regardless of the individual's assigned sex at birth.

Part 7. Section 109-5-0 of the code is amended to read:

109-5. Housing Discrimination Prohibited. No person may engage in any act of discrimination with respect to housing against any individual on the basis of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation~~[[0f]]>>~~, gender identity or expression, past or present membership in the military service,~~<< familial status>>~~, or based upon affiliation with, or perceived affiliation with any of these protected categories~~<<~~. No person may:

Part 8. Section 109-5-5-b of the code is amended to read:

b. Nothing in this subsection 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, disability, lawful source of income, marital status, sexual orientation~~[[0f]]>>~~, gender identity or expression, past or present membership in the military service,~~<< familial status>>~~, or based upon affiliation with, or perceived affiliation with any of these protected categories~~<<~~. Inquiries concerning source of income may be made if they are reasonably directed toward determining solvency, reliability, credit record or ability to pay, and are not a subterfuge to evade the purposes of this chapter.

Part 9. Section 109-5-9-0 of the code is amended to read:

9. 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 of a particular sex, race, religion, color, national origin or ancestry, age, disability, source of income, economic status, marital status, sexual orientation[[¤]]>>, gender identity or expression, past or present membership in the military service, << familial status>> , or based upon affiliation with, or perceived affiliation with any of these protected categories <<, or by representations to the effect that such present or prospective entry will or may result in:

Part 10. Section 109-9-0 of the code is amended to read:

109-9. Employment Discrimination Prohibited. No person may engage in any act of discrimination with respect to employment against any individual on the basis of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation[[¤]]>>, gender identity or expression, past or present membership in the military service, << familial status>> , or based upon affiliation with, or perceived affiliation with any of these protected categories <<.

Part 11. Section 109-9-8 of the code is amended to read:

8. CONTRACT TO INCLUDE PROVISION. All contracting agencies of the city of Milwaukee or any department thereof shall include in all contracts hereafter negotiated, or renegotiated by them, a provision obligating the contractor not to discriminate against any qualified employee or qualified applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation[[¤]]>>, gender identity or expression, past or present membership in the military service, << familial status>> , or based upon affiliation with, or perceived affiliation with any of these protected categories <<, and shall require the contractor to include a similar provision in all subcontracts.

Part 12. Section 109-11-2 and 3 of the code is amended to read:

109-11. Exceptions and Special Cases.

2. BONA FIDE OCCUPATIONAL QUALIFICATION. Notwithstanding s. 109-9, it shall not be an unlawful employment practice for an employer, employment agency or labor organization to indicate within a notice or advertisement for employees, a preference, limitation, specification or discrimination based on religion, sex, age, disability>>_1<< [[¤]] national origin>> or ancestry, color, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories<<; or to employ, classify or refer for employment any individual on the basis of religion, sex, age, disability>>_1<< [[¤]] national origin>> or ancestry, color, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories< where such is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

3. BONA FIDE DISTINCTIONS. Notwithstanding any other provision of s. 109-9, 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, disability, source of income, marital status, sexual orientation[[or]]>>, gender identity or expression, past or present membership in the military service,<< familial status>> , or based upon affiliation with, or perceived affiliation with any of these protected categories <<.

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: _____

LRB07252-7

RLW

7/24/2007