

City of Sun Prairie, Wisconsin

**AN ORDINANCE AMENDING
CHAPTER 9.20 –
HOUSING DISCRIMINATION**

Presented: November 6, 2007

Adopted: November 6, 2007

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File Number: 10,583

Ordinance No.: #342

ORDINANCE

The Common Council of the City of Sun Prairie, Dane County, Wisconsin, hereby ordains as follows:

SECTION 1. That Chapter 9.20 is hereby amended as follows: (Additions are noted by underline, deletions are noted by ~~overstrike~~.)

Sections:

9.20.010 Statement on fair housing.

9.20.020 Definitions.

9.20.030 Unlawful practices.

9.20.040 Exemptions.

9.20.050 ~~Enforcement~~ Tenant selection and screening allowed.

9.20.060 Enforcement.

Section 9.20.010 Statement on fair housing.

It is declared to be the policy of the city to assure equal opportunity to all persons to live in decent housing facilities regardless of race, color, religion, ancestry, national origin, sex, handicap, sexual preference, marital status of person maintaining a household, lawful source of income, place of birth or age and, to that end, to prohibit discrimination in housing by any persons. This policy does not preclude an owner from taking reasonable precautions and implementing sound business practice by screening tenants. This screening may include requiring credit histories and credit checks, requiring valid state or federal identification that provides sufficient identification of a person, or review of criminal background for reasonably related offenses. This chapter shall be deemed an exercise of the police powers of the City for the protection of the health and welfare of the people of this city and as fulfillment of the legislative directive of Section 66.1011, Wis. Stats. (Prior code § 15-2-1)

Section 9.20.020 Definitions.

As used in this chapter:

"Discrimination" or "discriminatory housing practice" means any difference in treatment based upon race, color, religion, sex, or national origin; or any act that is unlawful under this chapter. Discrimination as defined in this chapter does not include, and specifically exempts defining any of the following as protected classes for purposes of fair housing discrimination unless required by state statute or federal law:

1. Criminal History of all occupants and all named lessees of the dwelling – for offenses reasonably related to a lease transaction, the safety of other residents within the apartment complex, or maintenance of the facility;
2. Refusal to provide Social Security Number or ITIN for purposes of screening the applicant's credit or criminal background;
3. Refusal to provide or the absence of valid state or federal government issued identification.
4. Chronic Nuisances – Checking with local municipalities relating to violations of chronic nuisance ordinances;
5. Refusal of Section 8 Housing tenants, if not otherwise income qualified, if the owner has either refused all section 8 tenants or if they have previously set capacity controls on the number of section 8 units allowed within the property.

"Dwelling" means any building, structure, or portion thereof which is occupied as, or designed for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction thereof of any such buildings or structure.

"Family" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy and receivers.

"Financial institution" includes any person or organization engaged in the business of lending money or guaranteeing loans.

"Housing accommodation" or "dwelling" means any building, mobile home or trailer, structure, or portion thereof which is occupied as, or designed, or intended for occupancy, as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any real property, as defined, herein, used or intended to be used for any of the purposes set forth in this subsection.

"Landlord" - includes a lessee, sublessee, co-tenant, assignee, managing agent or other person or organization having the right of ownership or possession, or the right to, rent or lease any housing accommodation.

"Mortgage broker" means an individual who is engaged in or who performs the business or services of a mortgage broker as the same as defined by Wisconsin Statutes.

"Open market" means the market which is informed of the availability for sale, purchase, rental or lease of any housing accommodation, whether informed through a real estate broker or by advertising by publication, signs or by any other advertising methods directed to the public or any portion thereof, indicating that the property is available for sale, purchase, rental or lease.

"Owner" includes a lessee, sublessee, co-tenant, assignee, managing agent or other person or organization having the right of ownership or possession, or the right to sell, rent or lease any housing accommodation.

"Person" includes individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations.

"Protected Class" includes persons of a specific race, color, religion, ancestry, national origin, sex, handicap, sexual preference, marital status of person maintaining a household, lawful source of income, place of birth, age or other Federal or State designated protected classes for purposes of Fair Housing. Protected classes do not include persons with a criminal background (arrest or conviction record) related to safety or property offenses, persons who refuse to submit to a criminal background check or credit check, persons who refuse to produce a valid social security number or ITIN or persons who refuse to produce a federal or state government issued identification sufficient to confirm one's identity, or persons utilizing Section 8 housing vouchers.

"Real estate broker" or "real estate salesperson" includes any individual, qualified by law, who, for a fee, commission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer of any housing accommodation; or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he or she undertakes to promote the sale, purchase, rental or lease of any housing accommodation through its listing in publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

"Real property" includes buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums. (Prior code § 15-2-2)

Section 9.20.030 Unlawful practices.

In connection with any of the transactions set forth in this section which affect any housing accommodation on the open market, or in connection with any public sale, purchase, rental or lease of any accommodation, it is unlawful within the city for a person, owner, financial institution, real estate broker or real estate salesperson, or any representative of the above, to:

A. Refuse to sell, purchase, rent or lease, or deny to or withhold any housing accommodation from a person because ~~of his race, color, religion, ancestry, national origin, sexual preference, sex or place of birth, age, handicap, marital status~~ they are a member of a protected class; or

B. To discriminate against a person in the terms, conditions or privileges of the sale, purchase, rental or lease of any housing accommodation, or in the furnishing of facilities or services in connection therewith; or

C. To refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any housing accommodation from or to a person because ~~of his race, color, religion, ancestry, national origin, sexual preference, sex or place of birth, age, handicap, marital status~~ they are a member of a protected class; or

D. To refuse to negotiate for the sale, purchase, rental or lease of any housing accommodation to a person because of his race, color, religion, ancestry, national origin, sexual preference, sex or place of birth, age, handicap, marital status; or

E. To represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation, because of ~~his race, color, religion, or national origin, sexual preference, sex or place of birth, age, handicap, marital status~~ they are a member of a protected class; or

F. To make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted, or mailed, any notice, statement or advertisement, or to announce a policy or to sign or to use a form of application for the sale, purchase, rental, lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, which indicates any discrimination or any intent to make a discrimination; or

G. To offer, solicit, accept or use a list of any housing accommodation for sale, purchase, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental or lease, or in the furnishing of facilities or services in connection therewith; or

H. To induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation by representing that the presence or anticipated presence of persons of ~~any particular race, color, religion, sex, sexual preference or national origin, place of birth, age, handicap or marital status~~ a protected class in the area to be affected by such sale, purchase, rental or lease will or may result in either:

1. The lowering of property values in the area,
2. An increase in criminal or antisocial behavior in the area, or
3. A decline in the quality of schools serving the area; or

I. To make any misrepresentations concerning the listing for sale, purchase, rental or lease, or the anticipated listing of any of the above, or the sale, purchase, rental or lease of any housing accommodation in any area in the city for the purpose of inducing or attempting to induce any such listing or any of the above transactions; or

J. To engage in or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation; or

K. To retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this chapter, or because he or she has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this chapter; or

L. To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this chapter; or to obstruct or prevent any person from complying with the provisions of this chapter; or any orders issued thereunder; or

M. By canvassing, to commit any unlawful practices prohibited by this chapter; or

N. Otherwise to deny to, or withhold any housing accommodation from a person because of his or her race, color, religion, ancestry, sexual preference, national origin, sex, place of birth, age, handicap, marital status; or

O. For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part, in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other terms or conditions of such loans or other financial assistance because of the ~~race, color, religion, sexual preference, sex, national origin, age, handicap or marital status~~ protected class status of such person or of any person associated with him or her in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance which is to be made or given; or

P. To deny any qualified 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 him or her in their terms or conditions of such access, membership, or participation, on account of ~~race, color, religion, sex, sexual preference, national origin, age, handicap or marital status~~ his or her membership of a protected class. (Prior code § 15-2-3)

9.20.040 Exemptions.

This chapter shall not apply to:

A. A religious organization, association, or society or any nonprofit institution or organization operating, supervised, or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupancy of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such religion is restricted on account of ~~race, color, religion, sex, sexual preference, national origin, age, marital status, handicap, ancestry, or place of birth~~ a protected class;

B. A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members;

C. Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or served on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time; provided further, the sale, or rental of any such single-family house shall be excepted from the application of this chapter only if such house is sold or rented:

1. Without the use of any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person, and

2. Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 United States Code Section 3604,

3. Or of Section 9.20.030 of this chapter; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title;

D. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence. (Prior code § 15-2-4)

Section 9.20.050 Enforcement ~~Tenant selection and screening allowed.~~

A. No provision in this ordinance shall require owners or landlords to accept Section 8 housing vouchers except where required by state or federal law. For purposes of this ordinance the refusal of a landlord to accept section 8 as a legal source of income and the denial of an application shall not be considered discriminatory. If other section 8 tenants are allowed – published capacity limits shall be readily available.

B. No provision in this ordinance shall prohibit standard tenant screening including:

1. Checking Criminal Conviction & Arrest records of all occupants and all named lessees of the dwelling – for offenses related to a lease transaction, the safety of other residents within the apartment complex, or a history of property damage;

2. Refusal to provide Social Security Number or ITIN for purposes of screening the applicant's credit or criminal background;

3. Refusal to provide or the absence of valid state or federal government issued identification.

4. Checking Chronic Nuisances violations – of all occupants with local municipalities relating to violations of chronic nuisance ordinances;

Section ~~9.20.050~~ 9.20.060 Enforcement.

Any person aggrieved by an unlawful practice prohibited by this chapter may file a complaint with the common council within thirty (30) days after the aggrieved person becomes aware of the alleged unlawful practice and in no event more than sixty (60) days after the alleged unlawful practice has occurred. The common council or duly authorized representative shall receive each complaint and attempt to resolve each complaint. Failure to achieve a resolution acceptable to both parties and compliance with the ordinance codified in this chapter shall cause the common council to forward the complaint and findings to appropriate state and federal agencies. (Prior code § 15-2-5)

SECTION 2. Effective Date. This Ordinance shall become effective upon passage and publication as provided by law.

APPROVED: _____
Joe Chase, Mayor

Date Approved: November 6, 2007

This is to certify that the foregoing Ordinance was adopted by the Common Council of the City of Sun Prairie at a meeting held on the 6th day of November, 2007.

Diane J. Hermann-Brown, City Clerk