

ORDINANCE NO. ORD-20-12

First Reading: April 6, 2020
Public Hearing: April 20, 2020

Approved: April 20, 2020
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Effective: May 2, 2020

NON-DISCRIMINATION

An Ordinance to Amend Chapter 112 (Non-Discrimination), Sections 9:150, 9:151, 9:152, 9:156, and 9:157, Title IX of the Code of the City of Ann Arbor to Clarify Definition of Source of Income, Add Ethnicity as a Protected Class, and Add an Exception Allowing Discounts for Veterans.

The City of Ann Arbor Ordains:

Section 1. That Section 9:150 of Chapter 112 of Title IX of the Code of the City of Ann Arbor be amended to read as follows:

It is the intent of the city that no individual be denied equal protection of the laws; nor shall any individual be denied the enjoyment of his or her civil or political rights or be discriminated against because of actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, ethnicity, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight.

Section 2. That Section 9:151 of Chapter 112 of Title IX of the Code of the City of Ann Arbor be amended to read as follows:

9:151. - Definitions.

As used in this chapter, the following words and phrases have the following meanings:

- (1) *Age*. Chronological age.
- (2) *Arrest record*. Information indicating that an individual 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 by any law enforcement or military authority.
- (3) *Bona fide occupational qualification*. An otherwise protected characteristic which is reasonably necessary to the normal performance of the particular position in a particular business or enterprise.
- (4) *Contractor*. As defined in Title I, Section 1:312(5) of this Code.

- (5) *Disability*. A determinable physical or mental characteristic of an individual, which may result from disease, injury, congenital condition of birth, or functional disorder, if the characteristic:
- (a) for purposes of employment, substantially limits 1 or more of the major life activities of that individual and is unrelated to the individual's ability to perform the duties of a particular job or position or substantially limits 1 or more major life activities of that individual and is unrelated to the individual's qualifications for employment or promotion;
 - (b) for purposes of public accommodations, is unrelated to the individual's ability to utilize and benefit from a place of public accommodation or public service;
 - (c) for purposes of housing, substantially limits 1 or more of that individual's major life activities and is unrelated to the individual's ability to acquire, rent or maintain property.

Discrimination based on actual or perceived disability includes discrimination because of the use by an individual of adaptive devices or aids.

Disability does not include a determinable physical or mental characteristic caused by the current illegal use of a controlled substance by that individual. It also does not include a determinable physical or mental characteristic caused by the current use of alcoholic liquor by that individual, if that physical or mental characteristic negatively impacts that individual's ability to perform the duties of his or her job.

- (6) *Discriminate*. To make a decision, offer to make a decision or refrain from making a decision based in whole or in part on an individual's or his or her relatives' or associates' actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, ethnicity, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight.

Discrimination includes the use of facially neutral practices that have an adverse impact on members of a protected class (See 9:156 of this chapter).

Discrimination also includes harassment based upon any protected class, including, but not limited to sexual harassment.

- (7) *Educational association*. The fact of being enrolled or not enrolled at any educational institution.

- (8) *Ethnicity*. A heritage which is socially distinguishable from other groups that has developed its own subculture which can include nationality, religion and language.

- (89) *Employer*. A person or agent of that person, who, for compensation, employs 3 or more individuals.

- (~~910~~) *Familial status.* One or more children under the age of 18 residing with a parent or other individual having, or in the process of securing, legal custody of the child or children; or 1 or more children under the age of 18 residing with the designee of the parent or other individual having or securing custody, with the written permission of the parent or other individual.
- (~~119~~) *Family responsibilities.* Being a provider of care and/or support, or being perceived to be a provider of care and/or support for a family member.
- (~~124~~) *Gender expression.* A gender-based appearance, expression or behavior of an individual, regardless of the individual's assigned sex at birth.
- (~~132~~) *Gender identity.* An individual's internal sense of their own sex and a defining component of sex.
- (~~143~~) *Genetic information.* Information about an individual's genetic tests and the genetic tests of an individual's family members (e.g., family medical history), and the manifestation of a disease or disorder in family members of such individual. A genetic test is an analysis of DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations or chromosomal changes.
- (~~154~~) *Harassment.* A form of discrimination in which conduct is based upon an individual's membership in a protected class which:
- (a) Unreasonably interferes with that individual's work, or ability to utilize and benefit from a place of public accommodation or public service, or ability to obtain or maintain housing; and/or
 - (b) Creates a hostile environment at work, at a place of public accommodation or public service, or where that individual lives.
- (~~165~~) *HIV status.* The state of blood sero-positivity or sero-negativity with respect to the human immunodeficiency virus (HIV), including, but not limited to, diagnoses of acquired immunodeficiency syndrome (AIDS).
- (~~176~~) *Housing facility.* Any dwelling unit or facility in which it is intended individuals regularly will sleep and keep personal belongings including, but not limited to, a house, apartment, rooming house, housing cooperative, homeless shelter, hotel, motel, tourist home, retirement home or nursing home.
- (~~178~~) *Individual.* A human being, as distinguished from a person, as defined under this Code.
- (~~198~~) *Marital status.* The state of being married, unmarried, divorced or widowed.
- (~~2049~~) *Minority.* An individual who is Asian, Black or African American, Hispanic or Latino, Native Hawaiian or Other Pacific Islander, Native American, or Alaskan native.
- (~~219~~) *Perceived.* Refers to the perception of the person who acts and not to the perception of the individual for or against whom the action is taken.
- (~~224~~) *Person.* As defined in Title I, Section 1.8 of this Code.

- (232) *Place of public accommodation.* An educational, governmental, health, day care, entertainment, cultural, recreational, refreshment, transportation, financial institution, accommodation, business or other facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available to the public, or which receives financial support through the solicitation of the general public or through governmental subsidy of any kind.
- (243) *Political beliefs.* One's opinion, whether or not manifested in speech or association, concerning the social, economic, and governmental structure of society and its institutions. This chapter shall cover all political beliefs, the consideration of which is not preempted by state, federal or local law. With regard to employment, an individual's political beliefs that interfere or threaten to interfere with his or her job performance are specifically excluded from this protection.
- (254) *Sex.* Includes, but is not limited to, an individual's gender, gender identity, gender expression, pregnancy, childbirth, and medical conditions related to pregnancy or childbirth. An individual's sex shall be defined by that individual's gender identity; and use and/or occupancy of, access to and/or participation in sex-segregated facilities and/or entities shall be granted on that basis. Such sex-segregated facilities and/or entities include, but are not limited to, dwellings, housing, public accommodations, lavatories, locker rooms, instructional programs, athletic events and athletic teams.
- (265) *Sexual harassment.* A type of sex discrimination. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:
- (a) Submission to such conduct or communication is made a term or condition either explicitly or implicitly to obtain employment, public accommodations or housing.
 - (b) Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or housing.
 - (c) Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, or housing environment.
- (276) *Sexual orientation.* Emotional, romantic, and/or sexual attractions, or the absence thereof, to people. Sexual orientation also refers to a person's sense of identity based on those attractions, related behaviors, and membership in a community of others who share those attractions.
- (287) *Source of income.* Any lawful source of money paid directly to an individual or family or indirectly on behalf of an individual or family, including, but not limited to:

(a) Money derived from any lawful profession or occupation.

(b) Money derived from any contract, agreement, loan, or settlement; from any court order, such as court-ordered child support or alimony; from any gift or bequest; or from any annuity or life insurance policy.

(c) Money derived from any benefit or subsidy program, including, but not limited to, any housing assistance, such as Housing Choice Vouchers, Veterans Affairs Supportive Housing (VASH) Vouchers, or any other form of housing assistance payment or credit whether or not paid or attributed directly to a landlord; public assistance; emergency rental assistance; veterans benefit; Social Security or other retirement program; supplemental security income; or other program administered by any federal, state, or local agency or nonprofit entity. Any monthly housing assistance administered by any federal, state, or local agency or nonprofit entity shall be treated as income in the amount of 3x the value of that monthly rental assistance.

~~Any legal source from which a person obtains money.~~

~~(298)~~ *Veteran status.* Having served in any unit of the United States Armed Forces or their reserve components, including the National Guard and the Coast Guard.

~~(3029)~~ *Victim of domestic violence or stalking.* An individual who is a victim of domestic violence as defined in MCL § 400.1501 or a victim of stalking as defined in MCL § 750.411h and § 750.411i.

Section 3. That Section 9:152 of Chapter 112 of Title IX of the Code of the City of Ann Arbor be amended to read as follows:

9:152. - Discriminatory housing practices.

- (1) No person shall discriminate in leasing, selling or otherwise making available any housing facilities.
- (2) No person shall discriminate in the terms, conditions, maintenance or repair in providing any housing facility.
- (3) No person shall refuse to lend money for the purchase or repair of any real property or insure any real property solely because of the location in the city of such real property.
- (4) No person shall promote real estate transactions by representing that changes are occurring or will occur in an area with respect to any protected classification.
- (5) No person shall place a sign or other display on any real property which indicates that the property is for sale or has been sold when it is not for sale or has not recently been sold.

(6) No person shall fail to account for any tenant or prospective tenant's entire source of income when using a financial income standard for entering into or renewing a tenancy.

Section 4. That Section 9:156 of Chapter 112 of Title IX of the Code of the City of Ann Arbor be amended to read as follows:

9:156. – Discriminatory effects.

No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, ethnicity, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight for an individual to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a necessity does not arise due to a mere inconvenience or because of suspected objection to such a person by neighbors, customers or other persons.

Section 5. That Section 9:157 of Chapter 112 of Title IX of the Code of the City of Ann Arbor be amended to read as follows:

9:157. – Exceptions.

Notwithstanding anything contained in this chapter, the following practices shall not be violations of this chapter.

- (1) For a religious organization or institution to restrict any of its facilities of housing or accommodations which are operated as a direct part of religious activities to individuals of the denomination involved or to restrict employment opportunities for officers, religious instructors and clergy to individuals of that denomination.
- (2) For the owner of an owner-occupied 1-family or 2-family dwelling, or a housing facility or public accommodation facility, respectively, devoted entirely to the housing and accommodation of individuals of 1 sex, to restrict occupancy and use on the basis of sex.
- (3) To limit occupancy in a housing project or to provide public accommodations or employment privileges or assistance to individuals who are of low income, over 55 years of age or disabled, in circumstances in which such limitations are appropriately designated.

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- (4) To engage in a bona fide effort to establish an affirmative action program to improve opportunities in employment for groups, including, but not limited to, minorities and women, where allowed or required by law.
- (5) To discriminate based on an individual's age when such discrimination is required by state, federal or local law.
- (6) To refuse to enter a contract with an unemancipated minor.
- (7) To refuse to admit to a place of public accommodation serving alcoholic beverages an individual under the legal age for purchasing alcoholic beverages.
- (8) To refuse to admit individuals under 18 years of age to a business providing entertainment or selling literature which the operator of said business deems unsuitable for minors.
- (9) For an educational institution to limit the use of its facilities to those affiliated with such institution.
- (10) To provide discounts on products or service to students, minors, [veterans](#), and senior citizens.
- (11) To discriminate in any arrangement for the sharing of a dwelling unit by an individual who is sharing the unit.
- (12) To restrict use of lavatories and locker room facilities on the basis of sex.
- (13) For a governmental institution to restrict any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to federal and state laws and regulations.
- (14) To restrict participation in an instructional program, athletic event or on an athletic team on the basis of age or sex.
- (15) To restrict employment on the basis of a bona fide occupational qualification.
- (16) Nothing herein contained shall be construed to prohibit any affirmative action laws passed by any level of government. Preferential treatment of, or benefits conferred on any of the classes protected from discrimination under this chapter are permissible to the extent allowed by law.

Section 6: In the event any court of competent jurisdiction shall hold any provision of this Ordinance invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision thereof.

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Section 7: This Ordinance shall take effect ten days after passage and publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan at its regular session of April 20, 2020.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Webpage on April 22, 2020.

Jacqueline Beaudry, Ann Arbor City Clerk