

## ARTICLE III. DISCRIMINATION

### DIVISION 1. GENERALLY

#### Sec. 58-61. Intent.

(a) It is the intent of the city that no person be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against because of race, color, religion, national origin, sex, sexual orientation, age, marital status, having a disability, familial status, educational association, source of income, height or weight.

(b) Nothing herein contained shall be construed to prohibit any affirmative action laws passed by any level of government. Further, nothing in this article shall be construed to establish affirmative action for any of the classes defined herein.

(Ord. No. 865, § I, 12-16-1997)

#### Sec. 58-62. Definitions.

The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Age* means chronological age.

*Contractor* means a person who by contract furnishes services, materials or supplies. The term "contractor" does not include persons who are merely creditors or debtors of the city, such as those holding the city's notes or bonds or persons whose notes, bonds or stock is held by the city.

*Disability* means a functional limitation that interferes with a person's ability to see, walk, lift, hear or learn. It may refer to a physical, sensory or mental condition unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion or a limitation of physical capabilities unrelated to one's ability to acquire, rent and maintain property. Impairment refers to loss or abnormality of an organ or body mechanism, which may result in disability.

*Discriminate* means to subject anyone to different or separate treatment, based in whole or in part, on the person's actual or perceived race, color, religion, national origin, sex, sexual orientation, age, marital status, having a disability, familial status, educational association, height, or weight. Discrimination based on sex includes sexual harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

- (1) Submission to such conduct or communication is made a term or condition either explicitly or implicitly to obtain employment, public accommodations or housing.
- (2) 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.

(3) 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.

(4) Prohibited conduct constitutes sexual harassment whether it occurs between people of the same or opposite sex.

*Educational association* means the fact of being enrolled or not enrolled at any educational institution.

*Employer* means a person employing five or more persons.

*Familial status* means the state of being related by blood or affinity to the fourth degree.

*Housing facility* means any dwelling unit or facility used for a person to regularly sleep and keep personal belongings including, but not limited to, a house, apartment, roominghouse, housing cooperative, hotel, motel, tourist home, retirement home or nursing home.

*Income* means any of the following:

(1) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his employer and successor employers.

(2) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker's compensation.

(3) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, the state or a political subdivision of the state, another state, or another legal entity that is indebted to the individual.

*Marital status* means the state of being married, unmarried, divorced, separated or widowed.

*Minority* means a person who is African-American, Native American, Spanish-surnamed or Asian.

*Place of public accommodation* means 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.

*Sexual orientation* means heterosexuality, male or female homosexuality, bisexuality or gender identity.

(Ord. No. 865, § II, 12-16-1997)

**Cross references:** Definitions generally, § 1-2.

Sec. 58-63. Discriminatory housing practices.

- (a) No person shall discriminate in leasing, selling or otherwise making available any housing facilities.
  - (b) No person shall discriminate in the terms, conditions, maintenance or repair in providing any housing facility.
  - (c) No person shall refuse to lend money for the purchase or repair of any real property solely because of the location in the city of such real property.
  - (d) No person shall promote real estate transactions by representing that changes are occurring or will occur in an area with respect to race, religion, sexual orientation, or national origin.
  - (e) 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.
- (Ord. No. 865, § III, 12-16-1997)

Sec. 58-64. Discriminatory public accommodation practices.

No person shall discriminate in making available full and equal access to all goods, services, activities, privileges and accommodations of any place of public accommodation.

(Ord. No. 865, § IV, 12-16-1997)

Sec. 58-65. Discriminatory employment practices.

- (a) No employer shall discriminate in the employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any person.
  - (b) No person shall discriminate in limiting membership, conditions of membership or termination of membership in any labor union or apprenticeship program.
- (Ord. No. 865, § V, 12-16-1997)

**Cross references:** Businesses, ch. 22.

Sec. 58-66. Other prohibited practices.

- (a) No person shall adopt, enforce or employ any policy or requirement, publish, post or broadcast any advertisement, sign or notice which discriminates or indicates discrimination in providing housing, employment or public accommodations.
- (b) No person shall discriminate in the publication or distribution of advertising material, information or solicitation regarding housing, employment or public accommodations.
- (c) No agent, broker, labor union, employment agency or any other intermediary shall discriminate in making referrals, listings or providing information with regard to housing, employment or public accommodations. A report of the conviction of any such person for a violation of this article shall be made to the applicable licensing or regulatory agency for such person or business.
- (d) No person shall coerce, threaten or retaliate against a person for making a complaint or assisting in the investigation regarding a violation or alleged violation of this article, nor require,

request, conspire with, assist or coerce another person to retaliate against a person for making a complaint or assisting in an investigation.

(e) No person shall conspire with, assist, coerce or request another person to discriminate in any manner prohibited by this article.

(Ord. No. 865, § VI, 12-16-1997)

#### Sec. 58-67. Information and investigation.

(a) All persons claiming to be aggrieved by a discriminatory or unfair practice may, by themselves or by counsel, file with the city attorney a verified, written complaint which shall state the details, name and address of the person or entity alleged to have committed the discriminatory or unfair practice.

(b) After the filing of a verified complaint, a true copy shall be served within ten days by certified mail on the person against whom the complaint [is] filed, by the complainant.

(c) The city attorney shall refer this complaint to appropriate city departmental units and agencies for investigation as to the basis of the complaint.

(d) After sufficient review and determination, the city attorney shall issue a written opinion to the human relations commission whether probable cause exists to believe a discriminatory practice or practices occurred as alleged by the complainant.

(e) For an investigation, a person may be required to produce books, papers, records or other documents that may be relevant to a violation or alleged violations of this article. If such person does not comply with such request, the city attorney may apply to county circuit court for an order requiring production of such materials.

(f) If it is determined that no probable cause exists, the city attorney shall notify the complainant and respondent in writing of the dismissal of the complaint.

(Ord. No. 865, § VII, 12-16-1997; Ord. No. 947, 9-18-2001)

#### Sec. 58-68. Conciliation agreements and mediation.

(a) If probable cause has been determined, the human relations commission shall notify the complainant and respondent of mediation. Participation in mediation is voluntary, and either party may reject the offer to mediate. If the mediation request is accepted, the notice shall inform the parties of the identity of the mediator and shall request a time for the mediation to occur, no later than 45 days from the date probable cause was determined. Mediation shall be an informal process conducted by the human relations commission in accordance with the procedures established by the city council.

(b) Mediation sessions are not open to the public, but any resolution of the dispute reached through mediation shall not be final until released by the human relations commission.

Violations of such agreements shall be violations of this article.

(Ord. No. 865, § VIII, 12-16-1997)

#### Sec. 58-69. Injunctions.

Nothing in this article shall prohibit an aggrieved person from commencing civil action to obtain injunctive relief to prevent discrimination prohibited by this article.

(Ord. No. 865, § IX, 12-16-1997)

Sec. 58-70. Discriminatory effects.

No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to race, color, religion, national origin, sex, sexual orientation, age, source of income, familial status, educational association, marital status, having a disability, height or weight for a person 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 or actual objection to such a person by neighbors, customers, or other persons.

(Ord. No. 865, § X, 12-16-1997)

Sec. 58-71. Exceptions.

Notwithstanding anything contained in this article, the following practices shall not be violations of this article:

- (1) This article shall not be construed to prohibit or interfere with the exercise of a person's First Amendment rights.
- (2) 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 persons of the denomination involved or to restrict employment opportunities for officers, religious instructors and clergy.
- (3) For the owner of an owner-occupied one-family or two-family dwelling, or a housing facility or public accommodation facility, respectively, devoted entirely to the housing and accommodation of individuals of one sex, to restrict occupancy and use on the basis of sex.
- (4) To limit occupancy in a housing project or to provide public accommodations or employment privileges or assistance to persons of low income, over 55 years of age or who are handicapped.
- (5) To engage in a bona fide effort to establish or enforce an affirmative action program to improve opportunities in employment for minorities and women.
- (6) To discriminate based on a person's age when state, federal or local law requires such discrimination.
- (7) To refuse to enter into a contract with an unemancipated minor.
- (8) To refuse to admit to a place of public accommodation serving alcoholic beverages a person under the legal age for purchasing alcoholic beverages.
- (9) To refuse to admit person under 18 years of age to a business providing entertainment or selling literature or merchandise of a sexually explicit matter as defined by section 3 of Act No. 33 of the Public Acts of Michigan of 1978 (MCL 722.673).
- (10) For an educational institution to limit the use of its facilities to those affiliated with such institution.
- (11) To provide discounts on products or services to students, minors and/or senior citizens.
- (12) For a person to discriminate in any arrangement for the sharing of his own dwelling unit in which that person resides.
- (13) To restrict use of lavatories and locker room facilities on the basis of sex.

(14) To use marital status limitations in health or pension plans if they conform to federal and state laws and regulations.

(Ord. No. 865, § XI, 12-16-1997)

Sec. 58-72. Affirmative action by city contractors.

All contractors proposing to do business with the city shall abide by article VI of chapter 2.

(Ord. No. 865, § XII, 12-16-1997)

Sec. 58-73. Penalties.

(a) A violation of any provision of this article is a civil infraction punishable by a fine of not more than \$500.00 plus all costs of the action. A court of competent jurisdiction may issue and enforce any judgment, writ, or order necessary to enforce this article. This may include, but is not limited to, reinstatement, payment of lost wages, hiring, or promotion, sale, exchange, lease or sublease of real property, admission to a place of public accommodation, or other relief deemed appropriate.

(b) Nothing contained in this article shall be constituted to limit in any way the remedies, legal or equitable, which are available to the city or any other person for the prevention or correction of discrimination.

(Ord. No. 865, § XIII, 12-16-1997)

Sec. 58-74. Private actions for damages or injunctive relief.

(a) An individual who is the victim of discriminatory action in violation of this article may bring a civil action for appropriate injunctive relief or damages or both against the person who acted in violation of this article.

(b) As used in this article, the term "damages" includes any injury or loss caused by each violation of this article, including, but not limited to, reasonable attorneys fees.

(c) Private actions and remedies under this section are in addition to any actions for violations that the city may take.

(Ord. No. 865, § XIV, 12-16-1997)

Sec. 58-75. Limitation of action.

No complaint shall be accepted nor action taken unless filed within one year from the date of the alleged unlawful practice. Where the alleged unlawful practice is of a continuing nature, the limitation period shall not commence to run until the unlawful practice has ceased.

(Ord. No. 865, § XV, 12-16-1997)

Sec. 58-76. Immunity concerning performance of city duties.

This article shall not apply to the following persons concerning the performance of their official city duties:

(1) Mayor.

- (2) Mayor pro tem.
  - (3) City council members.
  - (4) City attorney and all assistants.
  - (5) All employees and staff of the city attorney.
  - (6) All members of the human relations commission and the clerk and secretary thereof.
- (Ord. No. 947, 9-18-2001)

Sec. 58-77. Immunity concerning actions or non-actions concerning performance of city duties.

The following persons shall have absolute immunity concerning their actions or non-actions for the performance of their duties concerning this article:

- (1) Mayor.
  - (2) Mayor pro tem.
  - (3) City council members.
  - (4) City attorney and all assistants.
  - (5) All employees and staff of the city attorney.
  - (6) All members of the human relations commission and the clerk and secretary thereof.
- (Ord. No. 947, 9-18-2001)

Sec. 58-78. Appeal.

An aggrieved party may appeal a decision made pursuant to this article to the circuit court by filing a claim of appeal within 21 days of the date of the order or action appealed from.

(Ord. No. 947, 9-18-2001)

Sec. 58-79. Complaints against city attorney or human relations commission members.

In the event of a complaint against the city attorney, assistant city attorneys, or human relations commission members in other than the official capacity, the matter shall be referred to the city manager for review. The city manager shall make a determination as to whether or not probable cause exists. If probable cause does exist, the city manager shall refer the matter to the human relations commission for action. If probable cause does not exist, the city manager shall so determine and notify the human relations commission and the parties. If the complaint is against a human relations commission member, the member shall not serve on the commission until determination of such complaint.

(Ord. No. 947, 9-18-2001)

**Editor's note:** A portion of Ord. No. 947, adopted Sept. 18, 2001, did not specifically amend the Code and has been codified herein as § 58-79 at the discretion of the editor.

Secs. 58-80--58-90. Reserved.

DIVISION 2. FAIR HOUSING\*

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\*Cross references: Businesses, ch. 22.

**State law references:** Similar provisions, MCL 37.2501 et seq.

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Sec. 58-91. Definitions.

The following words, terms and phrases when used in this division shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Handicap* means a determinable physical or mental characteristic of an individual or a history of the characteristic which may result from disease, injury, congenital condition of birth, or functional disorder which is unrelated to the individual's ability to acquire, rent or maintain property.

*Housing accommodations* means improved or unimproved real property, or a part thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as a home or residence of one or more persons. Housing accommodations shall include unimproved real property located in any residentially zoned area of the city.

*Manager* means a person authorized by the owner to sell, rent, transfer or lease any real property, housing accommodations, or any interest therein.

*Owner* means possessor of any interest in real property including lessor, sublessor, assignor, or other person having the right of ownership or possession or the right to sell, rent, transfer, or lease any real property, housing accommodations or any interest therein.

*Real estate broker or salesperson* means a person, whether licensed or not, who, for or with the expectation of receiving consideration:

- (1) Lists, sells, purchases, exchanges, rents or leases real property, housing accommodations, or an interest therein;
- (2) Negotiates or attempts to negotiate any listing, sale, purchase, exchange, rental or lease of real property, housing accommodations, or an interest therein;
- (3) Holds himself as listing, selling, purchasing, exchanging, renting or leasing real property, housing accommodations, or an interest therein;
- (4) Negotiates or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance on real property, housing accommodations, or an interest therein; or
- (5) Engages in the business of listing real property, housing accommodations, or an interest therein in publications.

The term "real estate broker or salesperson" shall include a person employed, acting as an independent contractor, or otherwise acting on behalf of a real estate broker or salesperson.

*Real estate transaction* means the sale, purchase, exchange, rental, lease, transfer, assignment or sublease of real property, housing accommodations, or an interest therein or the listing thereof for such purpose.

*Real property* means property used or zoned for residential purposes including a building, structure, mobile home, unimproved real estate, land, leasehold or an interest in a real estate cooperative or condominium.

*Sexual orientation* means male or female homosexuality, heterosexuality or bisexuality, by preference or practice.

(Code 1983, § 6.200)

**Cross references:** Definitions generally, § 1-2.

Sec. 58-92. Discrimination prohibited.

Except as otherwise provided in this division, no person engaging in a real estate transaction concerning housing accommodations, and no real estate broker or salesperson, shall, wholly or partly for reasons of religion, race, color, sex, marital status, age, national origin, handicap, sexual orientation, potential tenant/buyer having children, source of income, or birth place or any other protected classification specified by state or federal law:

- (1) Refuse to engage in a real estate transaction with a person;
- (2) Discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities, maintenance or services in connection therewith;
- (3) Refuse to receive from a person or to transmit to a person a bona fide offer to engage in a real estate transaction;
- (4) Refuse to negotiate for real estate transaction with a person;
- (5) Represent to a person that real property or an interest therein is not available for inspection, lease, sale and rental when in fact it is so available, or knowingly fail to bring a listing of real property to a person's attention, or refuse to permit a person to inspect real property;
- (6) Print, post, circulate, mail or otherwise cause to be published a statement, advertisement, notice or sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a preference, limitation, specification or discrimination with respect to religion, race, color, sex, marital status, age, national origin, handicap, sexual orientation, or any other protected classification specified by state or federal law;
- (7) Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (8) Deny a person access to or membership or participation in multiple listing services, real estate broker's organizations or other real estate services;
- (9) Place a sign or other display on any real property which indicates that the property is for sale or lease, or has been sold or leased when it is not for sale or lease or has not recently been sold or leased.

(Code 1983, § 6.201)

Sec. 58-93. Exemptions.

Notwithstanding anything contained in this division, the following practices shall not be violations of this division:

- (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 persons of the denomination or having membership in the organization involved.
- (2) A housing facility operated by a student organization recognized by the university dean of students, devoted entirely to the housing and accommodation of individuals of one sex, to restrict occupancy and use on the basis of sex.
- (3) To limit occupancy in a housing project to persons of low income, over 55 years of age or who are handicapped.
- (4) To discriminate based on a person's age when such discrimination is required by state, federal or local law.
- (5) To refuse to engage in a real estate transaction with a unemancipated minor.
- (6) For an educational institution to limit the use of its housing facilities to those affiliated with such institution.
- (7) For the owner of an owner occupied, single-family dwelling to limit the gender of the renter. (Code 1983, § 6.202)

Sec. 58-94. Discrimination by financial or insurance institutions.

(a) Except as otherwise provided in this division, a person to whom application is made for financial assistance or financing in connection with a real estate transaction or in connection with the insurance, construction, rehabilitation, repair, maintenance or improvement of real property, or an interest therein, which is utilized for housing accommodations, or a representative or such person shall not:

- (1) Discriminate against the applicant because of religion, race, color, sex, marital status, age, national origin, handicap, sexual orientation, tenant buyer having children, source of income or birth place or any other protected classification specified by state or federal law; or
  - (2) Use a form of application for insurance or financial assistance or financing, or make or keep a record or inquiry in connection with an application for financial assistance or financing, which indicates, directly or indirectly, a preference, limitation, specification or discrimination based on religion, race, color, sex, marital status, sexual orientation, tenant/buyer having children, source of income, birth place or any other protected classification specified by state or federal law.
- (b) Subsection (a)(2) of this section shall not apply to a form of application for financial assistance prescribed for the use of a lender regulated as a mortgagee under the National Housing Act, as amended, being 12 USC 1701 to 1750(g), as amended, or by a registration board or officer acting under the statutory authority of the state or the United States.
- (c) Nothing in this division shall be deemed to prohibit an owner, lender, or an agent from requiring that an applicant who seeks to buy, rent, lease, or obtain financial assistance for housing accommodations supply information concerning the applicant's financial, business, or employment status or other information designed solely to determine the applicant's financial, business, or employment status or other information designed solely to determine the applicant's credit worthiness, but not concerning handicaps for reasons contrary to the provisions or purposes of this division.

(Code 1983, § 6.203)

Sec. 58-95. Unlawful representations to induce transaction.

It shall be unlawful for a person, for the purpose of inducing a real estate transaction from which that person may benefit financially, to represent that a change has occurred or will or may occur in the composition of an area with respect to the religion, race, color, sex, marital status, age, national origin, handicap, sexual orientation, having children, source of income, birth place or any other protected classification specified by state or federal law, of the owners or occupants in the block, neighborhood or area in which the real property is located, or to represent that this change will or may result in the lowering of property values, an increase in criminal or anti-social behavior or a decline in the quality of schools in the block, neighborhood or area in which the real property is located.

(Code 1983, § 6.204)

Sec. 58-96. Property offered to public.

Nothing in this division shall require an owner to offer property to the public at large before selling or renting it, nor shall this division be deemed to prohibit owners from giving preference to prospective tenants or buyers for any reason other than religion, race, color, sex, marital status, age, national origin, handicap, sexual orientation, having children, source or income birth place or any other protected classification specified by state or federal law.

(Code 1983, § 6.205)

Sec. 58-97. Enforcement.

(a) *Report of violation.* Any person claiming a violation of this division shall make a written complaint to the city manager or his designee setting forth the details, including location of the property, names, dates, witnesses and other factual matter. All such complaints shall be verified by the claimant. Such complaints shall be filed with the city manager's office within 120 days after the alleged commission of the offense.

(b) *Investigation of complaints.* Within 30 days after a written, verified complaint is received, the city manager or his designee shall make a full investigation of the alleged violation. After such investigation, or at the end of such 30-day period, whichever occurs first, the city manager or his designee shall give written notice to the person accused of the violation that he shall have 30 days within which to submit a written statement of his version of the facts or schedule a meeting with the city manager or the manager's designee to attempt to resolve the matter by conciliation.

(c) *Conciliation agreements.* The city manager may enter into agreements whereby persons agree to methods of terminating discrimination or to reverse the effects past discrimination. Such agreement shall be made in writing and approved as to form by both parties. Violations of such agreement shall be violations of this division.

(Code 1983, § 6.206)

Sec. 58-98. Injunctions.

The city attorney or the city attorney's designee may commence a civil action to obtain injunctive relief to prevent discrimination prohibited by this division, to reverse the effects of such discrimination or to enforce a conciliation agreement.

(Code 1983, § 6.207)

Sec. 58-99. Related prohibitions.

(a) No person shall provide false or substantially misleading information to any authorized person investigating a complaint regarding a violation of this division, or sign a complaint for a violation of this division based upon false or substantially misleading information.

(b) No person shall coerce, threaten, or retaliate against any individual or organization for making a complaint or assisting in an investigation regarding a violation or alleged violation of this division or require, request, conspire with, assist or coerce another person to retaliate against any individual or organization for making a complaint or assisting in any investigation pursuant to this division.

(c) No person shall conspire with, aid, assist, compel, coerce or request another person to discriminate in any manner prohibited by this division.

(d) No person shall attempt directly or indirectly to commit an act prohibited by this division.

(Code 1983, § 6.208)

Secs. 58-100--58-120. Reserved.