

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, AMENDING OLYMPIA MUNICIPAL CODE CHAPTER 5.80 UNFAIR HOUSING PRACTICES

WHEREAS, the City of Olympia provides protection against unfair housing practices in Olympia Municipal Code (OMC) Chapter 5.80, declaring the policy of the City in the exercise of its police power for the public safety, public health, and general welfare, to assure equal opportunity to all persons to live in decent housing facilities regardless of race, color, religion, ancestry, national origin, gender, familial status, or presence of any sensory, mental, or physical disability or use of a trained guide dog or service animal by a disabled person, marital status, sexual orientation, or gender identity, or the perception thereof, or use of vouchers for payment of rent offered by any governmental agency on behalf of a prospective tenant or lessee to prohibit discrimination in housing by any person or entity; and

WHEREAS, over time, it becomes necessary to identify whether protections against housing discrimination may arise due to gaps in legislative language in the OMC, and to determine whether action should be taken to add protections into the Olympia Municipal Code’s existing non-discrimination laws to ensure that all residents of the City of Olympia, regardless of how they may structure their families or consensual relationships, have equal access to housing and opportunities in the City of Olympia; and

WHEREAS, the Olympia City Council legislatively finds that certain gaps in housing discrimination practices exist in the Olympia Municipal Code that require amendments to provide protection against discrimination to provide equal access and opportunities to housing; and

WHEREAS, the City Council further legislatively finds that amendments to Chapter 5.80 OMC are necessary to address any gaps in discrimination protections to ensure that all residents of Olympia, regardless of how they structure their families or consensual relationships, have equal access to housing, services and opportunities free from discrimination;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 5.80. Olympia Municipal Code Chapter 5.80 is hereby amended to read as follows:

**Chapter 5.80
UNFAIR HOUSING PRACTICES**

5.80.000 Chapter Contents

Sections:

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5.80.010 Declaration of policy

It is declared to be the policy of the eCity of Olympia in the exercise of its police power for the public safety, public health, and general welfare, for the maintenance of business and good government, and to assure equal opportunity to all persons to live in decent housing facilities regardless of race, color, religion, ancestry, national origin, gender, familial status, family and relationship structure, the presence of any sensory, mental, or physical disability, the use of a trained guide dog or service animal by a disabled person, marital status, sexual orientation, or gender identity, or the perception thereof, or use of vouchers for payment of rent offered by any governmental agency on behalf of a prospective tenant or lessee, and to that end to prohibit discrimination in housing by any person, including real estate brokers, associate brokers, salespersons, owners of real property and lenders to forward the cause of community, and to secure a reduction of all tensions and discriminations because of race, color, religion, national origin, gender, familial status, family and relationship structure, the presence of any sensory, mental, or physical disability, the use of a trained guide dog or service animal by a disabled person, marital status, sexual orientation, or gender identity, or the perception thereof.

5.80.020 Definitions

Definitions as used in this chapter, unless additional meaning clearly appears from the context, shall have the meanings ascribed herein:

- A. "Commission" means the Washington State Human Rights Commission.
- B. "Dwelling" includes any building containing one or more dwelling units.
- C. "Dwelling unit" includes a suite of rooms for occupancy by one family containing space for living, sleeping, and preparation of food, and containing toilet and bathing facilities.
- D. "Familial Status" means one or more individuals who have not attained the age of 18 years being domiciled with: 1) a parent or another person having legal custody of such individual or individuals; or 2) the designee of such parent or other person having such custody, with the written permission of such 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.
- E. "Family and relationship structure" means the actual or perceived involvement, or lack thereof, of an individual in an intimate personal relationship or relationships, other than a marital relationship. It includes an individual's actual or perceived affinity, or lack thereof, for any given type of intimate personal relationship, other than a marital relationship, regardless of whether the individual is currently in any intimate personal relationship(s). "Intimate personal relationship" means an interpersonal relationship, other than a marital relationship, between two or more adult individuals that involves romantic, physical, or emotional intimacy. This includes multi-partner/multi-parent families and relationships, stepfamilies, multi-generational households, diverse family structures, consensual non-monogamous relationships, and consensual sexual and/or intimate relationships, including asexual and aromantic relationships.
- EE. "Gender Identity" includes the status of being transsexual, transvestite, or transgender.
- FG. "Housing accommodations" includes any dwelling, or dwelling unit, rooming unit, rooming house, lot or parcel of land in the city which is used, intended to be used, or arranged or designed to be used as, or improved with, a residential structure for one or more human beings.
- GH. "Lender" includes any bank, insurance company, savings or building and loan association, credit union, trust company, mortgage company, or other person engaged wholly or partly in the business of lending money for the financing or acquisition, construction, repair, or maintenance of a housing accommodation.

HJ. "Occupant" includes any person who has established residence or has the right to occupancy in a housing accommodation.

IJ. "Owners" include persons who own, lease, sublease, rent, operate, manage, have charge of, control, or have the right of ownership, possession, management, charge, or control of the housing accommodation, on their own behalf or on behalf of another.

JK. "Person" means and includes one or more individuals, partnerships, or other business organizations or entities, trade or professional associations, corporations, legal representatives, trustees, trustees in bankruptcy, and receivers.

LK. "Person aggrieved" means any person against whom any alleged unfair housing practice has been committed.

ML. "Prospective borrower" includes any person who seeks to borrow money to finance the acquisition, construction, repair, or maintenance of a housing accommodation.

NM. "Prospective occupant" includes any person who seeks to purchase, lease, sublease or rent a housing accommodation of any kind or nature.

ON. "Real estate broker, associate broker, salesperson, or employee" includes any person employed by or associated with a real estate broker to perform or assist in the performance of any or all of the functions of a real estate broker.

PO. "Real estate broker" or "property manager or management company" includes any person who for a fee, commission, or other valuable consideration, lists for sale, sells, purchases, exchanges, leases or subleases, rents, or negotiates or offers or attempts to negotiate the sale, purchase, exchange, lease, sublease or rental of a housing accommodation of another, or holds that person out as, engaged in the business of selling, purchasing, exchanging, listing, leasing, subleasing, or renting a housing accommodation of another, or collects the rental for the use of a housing accommodation of another.

Q. "Real estate transactions" means and includes the advertising, sale, repair, improvement, lease, rental, or occupancy of any interest or portion of any interest in real property and shall also include the extension of credit, financing, insurance or services in connection with the sale, repair, improvement, lease, rental, or occupancy of any such interest in real property.

RP. "Rooming unit" includes one or more rooms within a dwelling unit or rooming house containing space for living and sleeping.

SQ. "Unfair housing practice" means any act prohibited by this chapter.

5.80.030 Unfair housing practices prohibited

Unfair housing practices as defined in this chapter in the advertisement of any interest or portion of any interest in real property, sale and offering for sale, and in the rental and offering for rent of housing accommodations are contrary to the public peace, health, safety and general welfare and are prohibited by the City of Olympia in the exercise of its police power.

5.80.040 Prohibited practices designated

A. No owner, lessee, sublessee, assignee, real estate broker, associate broker, salesperson, or employee, managing agent of, or other person having the right to sell, rent, lease, sublease, assign, transfer, or otherwise dispose of a housing accommodation shall refuse to sell, rent, lease, sublease, assign, transfer, or otherwise deny to, or withhold from any person or group of persons such housing accommodations, or segregate the use thereof, or represent that such housing accommodations are not available for inspection, when in fact they are so available, or expel or evict an occupant from a housing accommodation because of the race, color, religion,

ancestry or national origin, gender, familial status, family and relationship structure or lack thereof, the presence of any sensory, mental, or physical disability, the use of a trained guide dog or service animal by a disabled person, marital status, sexual orientation, or gender identity, or the perception thereof, of such person or persons, or discriminate against or segregate any person because of the person's race, color, religion, ancestry, national origin, gender, familial status, family and relationship structure or lack thereof or the perception thereof, the presence of any sensory, mental, or physical disability, the use of a trained guide dog or service animal by a disabled person, marital status, sexual orientation, or gender identity, or the perception thereof, in the terms, conditions, or privileges of the sale, rental, lease, sublease, assignment, transfer, or other disposition of any such housing accommodations or in the furnishing of facilities or services in connection therewith.

B. A real estate broker, salesperson, associate broker, or employee shall not, because of race, color, religion, ancestry, national origin, gender, familial status, family and relationship structure or lack thereof, the presence of any sensory, mental, or physical disability, the use of a trained guide dog or service animal by a disabled person, marital status, sexual orientation, or gender identity, or the perception thereof, of an occupant, purchaser, prospective occupant, lessee, or prospective purchaser, or use of rental vouchers offered by any governmental agency on behalf of a prospective tenant or lessee:

1. Refuse or intentionally fail to list or discriminate in listing a housing accommodation for sale, rent, lease, or sublease;
2. Refuse or intentionally fail to show to a prospective occupant the housing accommodation listed for sale, rental, lease, or sublease;
3. Refuse or intentionally fail to accept and/or transmit to an owner any reasonable offer to purchase, lease, rent or sublease a housing accommodation;
4. Otherwise discriminate against an occupant, prospective occupant, lessee, purchaser, or prospective purchaser of a housing accommodation.

C. No person, or lender, or any agent or employee thereof, to whom application is made for financial assistance for the purchase, refinancing, lease, acquisition, construction, rehabilitation, repair, or maintenance of any housing accommodation shall:

1. Discriminate against any person or group of persons because of race, color, religion, ancestry, national origin, gender, familial status, family and relationship structure or lack thereof, the presence of any sensory, mental, or physical disability, the use of a trained guide dog or service animal by a disabled person, marital status, sexual orientation, or gender identity, or the perception thereof, of such person or group of persons or of the prospective occupants or tenants of such real property in the granting, withholding, extending, modifying, or renewing, or in the rates, terms, conditions, or privileges of, any such financial assistance or use of rental vouchers offered by any governmental agency on behalf of a prospective tenant or lessee, or in the extension of services in connection therewith; or
2. Use any form of application for such financial assistance, or make any record of inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination, on the ground of race, color, religion, ancestry, national origin, gender, familial status, family and relationship structure or lack thereof, the presence of any sensory, mental, or physical disability, the use of a trained guide dog or service animal by a disabled person, marital status, sexual orientation, or gender identity, or use of rental vouchers offered by any governmental agency on behalf of a prospective tenant or lessee.

D. An owner, person, real estate broker, associate broker, salesperson, or employee, or lender shall not:

1. Require any information, make, or keep any record, or use any form of application containing questions or entries concerning race, color, religion, ancestry, national origin, gender, familial status, family and

relationship structure or lack thereof, the presence of any sensory, mental, or physical disability, the use of a trained guide dog or service animal by a disabled person, marital status, sexual orientation, or gender identity, or use of rental vouchers offered by any governmental agency on behalf of a prospective tenant or lessee, or the perception thereof, in connection with the sale, rental, lease, or sublease of any housing accommodation;

2. Publish, circulate, issue, advertise or display, or cause to be published, circulated, issued, advertised or displayed, any communication, notice, advertisement, or sign of any kind relating to the sale, rental, lease, sublease, assignment, transfer, or listing of a housing accommodation or accommodations which indicate any preference, limitation, specification, or discrimination based on race, color, religion, ancestry, national origin, gender, familial status, family and relationship structure or lack thereof, the presence of any sensory, mental, or physical disability, the use of a trained guide dog or service animal by a disabled person, marital status, sexual orientation, or gender identity, or use of rental vouchers offered by any governmental agency on behalf of a prospective tenant or lessee;

3. Aid, abet, incite, compel, or coerce the doing of any act defined in this chapter as an unfair housing practice; or obstruct or discriminate against a person in any manner because the person has complied or proposes to comply with the provisions of this chapter or has filed a complaint, testified, or assisted in any proceeding under this chapter, or any order issued thereunder, or attempt, either directly or indirectly, to commit any act defined in this chapter to be an unfair housing practice or apply any economic sanctions or deny any membership privileges because of compliance with the provisions of this chapter.

5.80.060 Enforcement Nonwaiver

~~All complaints or allegations of violations of this chapter shall first be referred for formal action to the commission, for cases within the commission's jurisdiction, and in all other cases to a neutral third party mediation, before formal charges are brought under this ordinance. The city prosecutor may decline or defer prosecution under this ordinance if an alleged victim fails to reasonably participate in mediation. Any written or oral agreement whereby any provision of this chapter is waived or modified, is declared against public policy and void.~~

5.80.070 Exemptions and interpretation

Nothing in this chapter shall:

A. Apply to the renting, ~~subrentings~~sub-renting, leasing or subleasing of single-family dwellings wherein the owners or persons entitled to possession thereof normally maintain, or intend to maintain, their residences, homes or abodes;

B. Be interpreted to prohibit any person from making a choice from among prospective purchasers or tenants of property on the basis of factors other than race, color, religion, ancestry, national origin, gender, familial status, family and relationship structure or lack thereof, the presence of any sensory, mental, or physical disability, the use of a trained guide dog or service dog by a disabled person, marital status, sexual orientation, or gender identity, or the perception thereof.

C. Make it an unfair practice or a denial of civil rights for any public or private educational institution to separate the sexes or give preference to or limit use of dormitories, residence halls, or other student housing to persons of one sex or to make distinctions on the basis of marital or familial status or family and relationship structure or lack thereof;

D. Apply the provisions of this chapter prohibiting discrimination based on familial status to housing for older persons as defined by the Federal Fair Housing Amendments Act of 1988, 42 USC Section 3607(B)(1) through (3) as amended by the Housing for Older Persons Act of 1995, P.L. 104-76, as enacted on December 28, 1995.

E. Require structural changes, modifications, or additions to make facilities accessible to a disabled person except as otherwise required by law. However, such exception shall not permit discrimination based on the presence of any sensory, mental, or physical disability or the use of a trained guide dog or service dog by a blind, deaf, or physically disabled person under the conditions or for the reasons set forth in RCW 49.60.222(2) as the same exists or may hereafter be amended.

5.80.080 ~~Violations – Misdemeanor – Gross Misdemeanor – Civil Infraction~~ Civil Enforcement – Remedies – Attorney’s Fees and Costs

~~A. Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.~~ Civil Action. Any person aggrieved by a violation of the unfair housing practices set forth in this chapter may enforce the provisions of this chapter by means of a civil action in Thurston County Superior Court of the State of Washington.

~~B. As an additional concurrent penalty, it shall be a civil infraction for a person, firm, or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as follows: Equitable Relief. Any person who commits, proposes to commit, or aids another in committing an act that violates this chapter may be enjoined therefrom by any court of competent jurisdiction. The court may also award any further relief it deems proper, including but not limited to restitution.~~

~~1. First offense: Class 3 (\$50), not including statutory assessments.~~

~~2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.~~

~~3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.~~

~~See also OMC Chapter 4.44, Uniform Civil Enforcement.~~

C. Civil Liability. The prevailing party in any civil action brought under this chapter shall be entitled to recover actual damages, litigation costs, and reasonable attorney's fees.

D. Remedies Not Exclusive. The remedies available in this chapter are not exclusive and may be used cumulatively with any other remedies in this chapter, the Olympia Municipal Code, or state law.

Section 2. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerk errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This Ordinance shall take effect thirty (30) days after passage and publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: