



HARVARD LAW SCHOOL
LGBTQ+ Advocacy Clinic



MODEL DIVERSE FAMILY AND RELATIONSHIP STRUCTURE NONDISCRIMINATION LEGISLATION

An ORDINANCE to Protect Family Inclusion and Relationship Diversity

WHEREAS: The City of _____ recognizes the diverse composition of its citizenry and values its people, including the diverse composition of families and intimate relationships;

and WHEREAS: The City recognizes that diverse family and relationship structures, including relationship structures involving more than two adults engaged in a loving and consensual relationship, are becoming increasingly common;

and WHEREAS: People in interpersonal relationships between two or more adult individuals that involve romantic, physical, emotional, and/or familial intimacy face discrimination in many aspects of public life due to prejudicial misunderstandings related to the validity and moral fitness of such relationships;

and WHEREAS: Single parents and people who identify as asexual and/or aromantic also face discrimination in many aspects of public life.

And WHEREAS: The City of _____ acknowledges that many antidiscrimination laws were enacted in a time when diverse family and relationship structures were not properly recognized and now seeks to recognize the diverse family and relationship structures of its residents, including multi-partner/multi-parent families and relationships, step families, single parents, diverse family structures, multi-generational households, consensually non-monogamous relationships, and consensual sexual and/or intimate relationships, including asexual and aromantic relationships;

and WHEREAS: In order to recognize these relationships in the full scope of anti-discrimination law, we must change the antidiscrimination language of the Ordinances of the City of _____ to prohibit discrimination on the basis of relationship status; now and therefore be it...

Chapter ____: DISCRIMINATION BASED ON DIVERSE FAMILY AND RELATIONSHIP STRUCTURE

Definitions.

“Business establishment” means any entity, however organized, which furnishes goods, services or accommodations to the general public. An otherwise qualifying establishment which has membership requirements is considered to furnish services to the general public if its membership requirements: (1) consist only of payment of fees; (2) consist of requirements under which a substantial portion of the residents of this city could qualify; or (3) consist of an otherwise unlawful business practice.

“Discrimination” means any act, policy or practice which, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's family and relationship structure. The phrase “differential treatment” includes any limitation on a person's full, unsegregated and equal access to or enjoyment of, employment, real estate transactions, business establishments, and municipal services. Discrimination on the basis of family and relationship structure shall include both discrimination based on actual knowledge of family and relationship structure and discrimination based on supposition or assumption of family and relationship structure or desired structure.

“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, step families, multi-generational households, diverse family structures, consensually nonmonogamous relationships, and consensual sexual and/or intimate relationships, including asexual and aromantic relationships.

“Person” means any natural person, firm, corporation, partnership or other organization, association or group of persons however organized.

“Real estate transactions” means and includes the 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.

Unlawful practices.

- A. In General. It is unlawful for any person to do anything which has the effect of discriminating against any person as a result of that person’s family and relationship structure, with respect to any of the following activities:
 - 1. Real Estate. Any real estate transaction;

2. Business Establishments. The availability of goods, facilities or services from any business establishment;
3. City Services and Facilities. The use or availability of any municipal service or facility;
4. City Supported Services and Facilities. The use or availability of any service or facility wholly or partially funded or otherwise supported by the city.
5. Employment.
 - a. Employers--Discrimination. It shall be an unlawful employment practice for an employer to fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions or privileges of employment on the basis of such individual's family or relationship structure.
 - b. Employers--Segregation. It shall be an unlawful employment practice for an employer to limit, segregate or classify employees or applicants for employment in any manner which would deprive or tend to deprive any individual of employment opportunities, or adversely affect his or her employment status on the basis of such individual's family or relationship structure.
 - c. Employment Agencies. It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment any individual, or otherwise to discriminate against any individual on the basis of such individual's family or relationship structure.
 - d. Labor Organizations. It shall be an unlawful employment practice for a labor organization to fail or refuse to include in its membership or to otherwise discriminate against any individual; or to limit, segregate or classify its membership; or to classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive such individual of employment opportunities, or otherwise adversely affect her or his status as an employee or as an applicant for employment on the basis of such individual's family or relationship structure.
 - e. Job Training. It shall be an unlawful employment practice for an employer, an employment agency or a labor organization to discriminate against any individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining, including any on-the-job training program on the basis of such individual's family or relationship structure.
 - f. Advertising. It shall be an unlawful employment practice for an employer, employment agency or a labor organization to print, publish, advertise or disseminate in any way, any notice or advertisement with respect to employment, membership in, or any classification or referral for employment or training by any such organization, which expresses an intent to discriminate based on family or relationship structure.

B. Exceptions.

1. Real Estate Transactions.

- a. **Owner Occupied Dwellings.** Nothing in subsection (A)(1) of this section shall be construed to apply to the rental or leasing of any housing unit in which the owner or lessor or any member of their family occupies one of the living units and it is necessary for the owner, lessor or family member to use either a bathroom facility or a kitchen facility in common with the prospective tenant.
 - b. **Effect on Other Laws.** Nothing in subsection (A)(1) of this section shall be deemed to permit any rental or occupancy of any dwelling unit or commercial space otherwise prohibited by law.
- 2. **City Supported Services and Facilities.** Subsection (A)(4) of this section does not apply to facilities or services which only receive assistance from the city which is provided to the public generally.
- C. **Advertising.** It is unlawful for any person to make, publish or disseminate any notice or statement which indicates that such person engages in or will engage in any practice prohibited by this chapter.
- D. It shall be an unlawful practice for any person to deny any individual access to the full and equal enjoyment of privileges, benefits, goods, services and facilities, consistent with the person's family relationship structure.

Civil Enforcement.

- A. **Civil Action.** Any aggrieved person may enforce the provisions of this chapter by means of a civil action.
- B. **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.
- C. **Civil Liability.** Any person who violates, or any person who aids another to violate, any provision of this Chapter shall be liable for up to three (3) times actual damages and litigation costs and reasonable attorney's fees. The court may award punitive damages in a proper case as set out in Civil Code Section 3294 and pursuant to the standards set forth in that Code Section or any successor thereto, pursuant to standards for punitive damages set by state law.
- 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 or at law.

Nonwaiverability.

Any written or oral agreement whereby any provision of this chapter is waived or modified, is against public policy and void.

Recognition & Scope

The City of _____ recognizes its commitment to nondiscrimination and fair treatment of its citizens and employees, adopts this ordinance modifying the nondiscrimination provisions of the Municipal Code. The City of _____ acknowledges that the perpetuation of traditional definitions of “family” excludes a significant segment of the _____ population, such as multi-partner/multi-parent families and relationships, step families, single parents, diverse family structures, multi-generational households, consensually non-monogamous relationships, and consensual sexual and/or intimate relationships, including asexual and aromantic relationships. Individuals involved in such relationship structures are denied certain rights or legal protections that should be afforded to persons who share their homes, their hearts, and their lives. The City, recognizing its commitment to nondiscrimination and fair treatment of its residents and employees, adopts this Chapter prohibiting discrimination on the basis of family and relationship structure. The ordinance protects people involved in multi-partner/multi-parent families and relationships, step families, single parents, diverse family structures, multi-generational households, consensually non-monogamous relationships, and consensual sexual and/or intimate relationships, including asexual and aromantic relationships from discrimination in matters of housing, employment, education, contracts, purchasing, and public accommodations.

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Sourced from: 4-16-2024 Oakland Adopted Nontraditional Family Nondiscrimination Ordinance