

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO
NON-DISCRIMINATION AND AMENDING OLYMPIA MUNICIPAL CODE
SECTIONS 1.04.010, 1.24.010 AND OLYMPIA MUNICIPAL CODE CHAPTER
3.18.**

WHEREAS, it is in the public interest to ensure that City services and resources be delivered to Olympia citizens in a fair and impartial manner; and

WHEREAS, it is appropriate that safeguards against discrimination be enacted by the City Council and set forth in the Olympia Municipal Code; and

WHEREAS, certain updates to the Olympia Municipal Code must be made to recognize and be consistent with changes in state law;

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

Section 1. Amendment of OMC 1.04.010. Olympia Municipal Code Section 1.04.010 is hereby amended to read as follows:

1.04.010 Definitions

The following words and phrases, whenever used in the ordinances of the City of Olympia, shall be construed as defined in this section, unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

- A. "City" means the City of Olympia or the area within the limits of the City of Olympia, and such area outside the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.
- B. "Council" means the City Council of the City of Olympia. "All its members" or "all commissioners" means the total number of councilmembers holding office.
- C. "City Council" means the City Council of the City of Olympia. "All its members" or "all councilmembers" means the total number of councilmembers holding office.
- D. "County" means the county of Thurston.
- E. "Law" denotes applicable federal law, the Constitution and statutes of the state of Washington, the ordinances of the City of Olympia, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.
- F. "Master Meter" means a common meter which provides water service to a community or number of individual users.

G. "May" is permissive.

H. "Month" means a calendar month.

I. "Must" and "shall" are each mandatory.

J. "Oath" includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

K. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, or tenant by the entirety of the whole or a part of such building or land.

L. "Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

M. "Personal property" includes money, goods, chattels, things in action and evidences of debt.

N. "Preceding" and "following" mean next before and next after, respectively.

O. "Property" includes real and personal property.

P. "Real property" includes lands, tenements and hereditaments.

Q. "Sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

QR. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

RS. "State" means the state of Washington.

ST. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

TU. "Tenant" and "occupant," applied to a building or land, include any person who occupies the whole or a part of such building or land, whether alone or with others.

UV. "Written" includes printed, typewritten, mimeographed, multi-graphed, or otherwise reproduced in permanent visible form.

VW. "Year" means a calendar year.

Section 2. Amendment of OMC 1.24.010. Olympia Municipal Code Section 1.24.010 is hereby amended to read as follows:

1.24.010 Prohibited

~~A.~~ No officer, official, employee, agent or contractor of the city shall in the rendering or delivery of city services or resources, discriminate against any person(s), firm or organization because of age, sex, race, creed, color, sexual orientation or national origin, or the presence of any physical, mental or sensory disability, or because of any other status protected from discrimination by law; provided, that this section shall not affect any other provision in law, ordinance, resolution or rule which grants special consideration, benefit or rights to any person(s), firm or organization based on the above classifications.

~~B. The effect of this chapter, as it applies to sexual orientation, is to prohibit only that discrimination which is based solely on a person's heterosexuality or homosexuality.~~

Section 3. Amendment of OMC 3.18. Olympia Municipal Code Chapter 3.18 is hereby amended to read as follows:

3.18.010 Definitions

For the purposes of this ~~ordinance~~ chapter:

A. "Contract" means a contract for public works, consulting, or supplies, material, equipment or services estimated to cost fifty thousand dollars (\$50,000) or more;

B. "Contract awarding authority" means a City Department, Council, employee, or board authorized to enter into or to administer contracts on behalf of the City;

~~C. "Domestic partner" means any person who is registered with his/her employer as a domestic partner or, in the absence of such employer provided registry, is registered as a domestic partner with a governmental body pursuant to state or local law authorizing such registration. Includes same sex and opposite sex partners.~~

~~DC.~~ "Employee benefits" means the provisions of health insurance benefits (medical, dental, vision), provided that it does not include benefits to the extent that the application of the requirements of this ~~ordinance~~ chapter to such benefits may be preempted by federal or state law.

3.18.020 City Contracts – Non – Discrimination in Benefits

A. ~~No~~ Each contractor on a City contract shall have in place, prior to contracting with the City, policies prohibiting discrimination discriminate in the provision of employee benefits ~~between an employee with a domestic partner and an employee with a spouse based on age, sex, race, creed, color, sexual orientation or national origin, or the presence of any physical, mental or sensory disability, or because of any other status protected from discrimination by law.~~ The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular benefit to domestic partners, so long as the contractor provides the employee with a cash equivalent.

B. ~~Other options for compliance allowed. Provided that a contractor does not discriminate in the provision of benefits between employees with spouses and employees with domestic partners, a contractor may:~~

- ~~1. Elect to provide benefits to individuals in addition to employees' spouses and employees' domestic partners;~~
- ~~2. Allow each employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent benefits; or~~
- ~~3. Provide benefits neither to employees' spouses nor to employees' domestic partners.~~

C. ~~Requirements inapplicable under certain conditions. The City may waive the requirements of this ordinance where:~~

- ~~1. Award of a contract or amendment is necessary to respond to an emergency;~~
- ~~2. The contractor is a sole source;~~
- ~~3. No compliant contractors are capable of providing goods or services that respond to the City's requirements;~~
- ~~4. The contractor is a public entity;~~
- ~~5. The requirements are inconsistent with a grant, subvention or agreement with a public agency;~~
- ~~6. The City is purchasing through a cooperative or joint purchasing agreement.~~

D. ~~The City shall reject an entity's bid or proposal, or terminate a contract, if the City determines that the entity was set up, or is being used, for the purpose of evading the intent of this ordinance.~~

EB. No contract awarding authority shall execute a contract with a contractor unless such contractor has agreed that ~~the contractor~~ it will not discriminate in the provision of employee benefits and has non-discrimination policies in place as provided for in this ordinance chapter. A signed Equal Benefits Compliance Declaration shall be completed by the contractor for all contracts awarded.

FC. All contracts awarded by the City shall contain provisions prohibiting discrimination in the provision of employee benefits, including provisions containing appropriate remedies for the breach thereof as prescribed by this ordinance chapter.

3.18.030 Limitations

The requirements of this ordinance chapter shall apply only to those portions of a contractor's operations that occur:

- A. Within the City;
- B. On real property outside of the City if the property is owned by the City or if the City has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the City; and
- C. Elsewhere in the United States where work related to a City contract is being performed. The requirements of this ordinance chapter shall not apply to subcontracts or subcontractors of any contract or contractor.

3.18.040 Powers and Duties of the City

The City Manager shall have the power to:

- A. Adopt rules and regulations in accordance with this ordinance chapter, establishing standards and procedures for effectively carrying out this ordinance chapter;
- B. Determine and impose appropriate sanctions ~~and/or liquidated damages~~ for violation of this chapter by contractors including, but are not limited to:
 - 1. ~~Disqualification~~ As allowed by law, disqualification of the contractor from bidding on or being awarded a City contract ~~for a period of up to five years~~; and
 - 2. Contractual remedies, including, but not limited to, ~~liquidated damages and termination~~ of the contract.
- C. Examine contractor's benefit programs and policies covered by this ordinance chapter;
- D. Allow for remedial action after a finding of non-compliance, as specified by this ordinance chapter;
- E. Perform such other duties as may be required by ordinance or which are necessary to implement the purposes of this ordinance chapter.

3.18.050 Appeals

Any aggrieved party may appeal a decision of the City to the City Manager by the submittal of a written request within ten (10) working days of the decision to be appealed. The City Manager's decision will be in

writing with findings upon which the decision was made. Subsequent appeal will be to the Thurston County Superior Court.

3.18.060 Effective Date

The provisions of this chapter shall apply to any contract awarded on or after ~~January~~ August 1, 2005~~2014~~. ~~On or about March 1, 2006, City staff will present to the Council a status report on the implementation of these provisions.~~

Section 4. 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 5. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 6. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



ASSISTANT CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: