

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, ENACTING OLYMPIA MUNICIPAL CODE (OMC) CHAPTER 7.01 CODE AGAINST DISCRIMINATION

WHEREAS, the Olympia City Council recognizes the harm caused by unlawful discrimination and declares its belief that all persons are equal in the eyes of their Creator and have unalienable rights to life, liberty, and the pursuit of happiness which should not be abridged by race, color, religion, national origin, gender, sexual orientation, gender identity, familial status or family or relationship structures, age, disability or other forms of discrimination; and

WHEREAS, the City of Olympia has protection within the Olympia Municipal Code against discrimination in the delivery of City services or resources (OMC Chapter 1.24), non-discrimination in benefits relating to city contracts (OMC Chapter 3.18), and unfair housing practices (OMC Chapter 5.80), there is not a comprehensive prohibition in the Olympia Municipal Code against unlawful discrimination; and

WHEREAS, the Olympia City Council legislatively finds a gap in the Olympia Municipal Code that comprehensively prohibits unlawful discrimination in the City of Olympia which should properly be addressed by enacting an Olympia Code Against Discrimination; and

WHEREAS, the Olympia City Council further finds that all Olympia residents should be free from the fear or distress caused by unlawful discrimination; and

WHEREAS, the Olympia City Council also legislatively finds that a policy against unlawful discrimination is a proper exercise of the City of Olympia’s police power for the public safety, health, and general welfare of Olympia’s residents and maintenance of business and good government;

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

Section 1. NEW CHAPTER OMC 7.01. Olympia Municipal Code Chapter 7.01 is enacted as follows:

Chapter 7.01

OLYMPIA CODE AGAINST DISCRIMINATION

7.01.000 Chapter Contents

Sections:

7.01.010 Declaration of policy

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7.01.010 Declaration of policy

This chapter shall be known as the Olympia Code Against Discrimination. It is declared to be the policy of the City 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 residing, employed, or visiting in the City of Olympia to be free from discrimination regardless of race, creed, color, religion, ancestry, national origin, citizenship or immigration status, age, sex, gender, marital status, sexual orientation, or gender identity, or the perception thereof, familial status, family or relationship structures, families with children, the presence of any sensory, mental, or physical disability, the use of a trained guide dog or service animal by a disabled person, honorably discharged veteran or military status, 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, and to eliminate and prevent discrimination in employment, in credit and insurance transactions, in places of public resort, accommodation, or amusement, and real property transactions and lenders to forward the cause of community, and to secure a reduction of all tensions and discriminations because of unlawful discrimination.

7.01.020 Construction and election of other remedies

This chapter shall be liberally construed for the accomplishment of the purposes within and the policy set forth. Nothing in this chapter shall modify, reduce, or limit any rights granted under state or federal law to the extent that distinction or differential treatment on the basis of citizenship or immigration status is authorized by federal or state law, regulation, or government contract, it is not an unfair practice. Nor shall anything herein be construed to deny the right to any person to institute any action or pursue any civil or criminal remedy based upon an alleged violation of a person's civil rights.

7.01.030 Definitions

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

A. "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur.

B. "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing

contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution: PROVIDED FURTHER, That this definition, as it relates to "service animal trainers" and "service animal trainees" as those terms are defined in this section, shall not include those places of public accommodation conducted for housing or lodging of transient guests.

C. "Complainant" means the person who files a complaint in a real estate transaction.

D. "Disability" means the presence of a sensory, mental, or physical impairment that:

1. Is medically cognizable or diagnosable; or

2. Exists as a record or history; or

3. Is perceived to exist whether or not it exists in fact.

a. A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.

b. For purposes of this definition, "impairment" includes, but is not limited to:

i. Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

ii. Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

c. Only for the purposes of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:

i. The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or

ii. The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

d. For purposes of (c) of this subsection, a limitation is not substantial if it has only a trivial effect.

- E. "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons.
- F. "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- G. "Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person.
- H. "Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons, and does not include any religious or sectarian organization not organized for private profit.
- I. "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.
- J. "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies 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 eighteen years.
- K. "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.
- L. "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, sexual orientation, national origin, or with any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, to be treated as not welcome, accepted, desired, or solicited.
- M. "Gender Identity" includes the status of being transsexual, transvestite, or transgender.
- N. "Honorably discharged veteran or military status" means a person who is:

1. A veteran, as defined in RCW 41.04.007; or
 2. An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.
- O. "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.
- P. "Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment.
- Q. "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.
- R. "Marital status" means the legal status of being married, single, separated, divorced, or widowed.
- S. "National origin" includes "ancestry."
- T. "Occupant" includes any person who has established residence or has the right to occupancy in a housing accommodation.
- U. "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.
- V. "Person" includes one or more individuals, partnerships, or other organizations, trade or professional associations, corporations, legal representatives, trustees, trustees in bankruptcy, and receivers.
- W. "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building.
- X. "Race" is inclusive of traits historically associated or perceived to be associated with race including, but not limited to, hair texture and protective hairstyles. For purposes of this subsection, "protective hairstyles" includes, but is not limited to, such hairstyles as afros, braids, locks, and twists..
- Y. "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services.
- Z. "Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.
- AA. "Service animal" means any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by the service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to,

assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks. This subsection does not apply to RCW 49.60.222 through 49.60.227 with respect to housing accommodations or real estate transactions.

BB. "Service animal trainee" means any dog or miniature horse that is undergoing training to become a service animal.

CC. "Service animal trainer" means an individual exercising care, custody, and control over a service animal trainee during a course of training designed to develop the service animal trainee into a service animal.

DD. "Sex" means gender.

EE. "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.

7.01.040 Freedom from discrimination

A. The right to be free from discrimination because of race, creed, color, religion, ancestry, national origin, citizenship or immigration status, age, sex, gender, marital status, sexual orientation, or gender identity, or perception thereof, familial status, family or relationship structures, families with children, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, 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, and to eliminate and prevent discrimination in employment, in credit and insurance transactions, in places of public resort, accommodation, or amusement, and real property transactions and lenders to forward the cause of community, and to secure a reduction of all tensions and discriminations because of unlawful discrimination. is recognized as and declared to be a civil right. This right shall include, but not be limited to:

1. The right to obtain and hold employment without discrimination;
2. The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;
3. The right to engage in real estate transactions without discrimination, including discrimination against families with children, familial status, family or relationship structures, or use of vouchers for payment of rent offered by any governmental agency on behalf of a prospective tenant or lessee;

4. The right to engage in credit transactions without discrimination;
5. The right to engage in insurance transactions or transactions with health maintenance organizations without discrimination: PROVIDED, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an unfair practice for the purposes of this subparagraph;
6. The right to engage in commerce free from any discriminatory boycotts or blacklists. Discriminatory boycotts or blacklists for purposes of this section shall be defined as the formation or execution of any express or implied agreement, understanding, policy or contractual arrangement for economic benefit between any persons which is not specifically authorized by the laws of the United States and which is required or imposed, either directly or indirectly, overtly or covertly, by a foreign government or foreign person in order to restrict, condition, prohibit, or interfere with or in order to exclude any person or persons from any business relationship on the basis of race, color, creed, religion, sex, honorably discharged veteran or military status, sexual orientation, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, or national origin, citizenship or immigration status, or lawful business relationship: PROVIDED HOWEVER, That nothing herein contained shall prohibit the use of boycotts as authorized by law pertaining to labor disputes and unfair labor practices; and
7. The right of a mother to breastfeed her child in any place of public resort, accommodation, assemblage, or amusement.

B. Any person deeming himself or herself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit including reasonable attorneys' fees or any other appropriate remedy authorized by this chapter or the United States Civil Rights Act of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3601 et seq.).

C. Except for any unfair practice committed by an employer against an employee or a prospective employee, or any unfair practice in a real estate transaction which is the basis for relief specified in the amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any unfair practice prohibited by this chapter which is committed in the course of trade or commerce as defined in the Consumer Protection Act, chapter 19.86 RCW, is, for the purpose of applying that chapter, a matter affecting the public interest, is not reasonable in relation to the development and preservation of business, and is an unfair or deceptive act in trade or commerce.

7.01.050 Nonwaiver

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

7.01.060 Violations – Civil Enforcement – Remedies – Attorney’s Fees and Costs

A. Civil Action. Any person aggrieved by a violation of the Olympia Code Against Discrimination may enforce the provisions of this chapter by means of a civil action in any court of competent jurisdiction, including but not limited to the Superior Court of Thurston County for the State of Washington.

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 or injunctive relief.

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 or federal 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: