

ORDINANCE NO. 1636

AN ORDINANCE TO AMEND TITLE IX, POLICE REGULATIONS, OF THE CODE OF THE CITY OF SOUTHFIELD, BY DELETING CHAPTER 122, FAIR NEIGHBORHOOD PRACTICES, IN ITS ENTIRETY, AND ADDING IN LIEU THEREOF A NEW CHAPTER 122, SOUTHFIELD HUMAN RIGHTS ORDINANCE - DISCRIMINATION PROHIBITED.

THE CITY OF SOUTHFIELD ORDAINS:

SECTION 1.

The Code of the City of Southfield is hereby amended by deleting Chapter 122, Fair Neighborhood Practices, in its entirety, and adding in lieu thereof a new Chapter 122, Southfield Human Rights Ordinance - Discrimination Prohibited, to Title IX, Police Regulations, which new chapter shall read as follows:

CHAPTER 122. SOUTHFIELD HUMAN RIGHTS ORDINANCE - DISCRIMINATION PROHIBITED

Sec 9.380 Findings and Purpose

- a) The City Council does hereby find that Southfield is a diverse community consisting of people of many different races, colors, religions, national origins, sexes, ages, heights, weights, physical and mental disabilities, marital statuses, family statuses, sexual orientations, and gender identities. It is the intent of the City of Southfield that no person be denied the equal protections of the laws; nor shall any person be denied the enjoyment of his or her civil rights or be discriminated against because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity.
- b) The prohibition against discrimination as provided for in this chapter shall not be deemed preempted by federal or state law, but is intended to supplement state and federal civil rights laws prohibiting discrimination in the areas of employment, public accommodations, and housing. Provided, however, this chapter shall be construed and applied in a manner consistent with First Amendment jurisprudence regarding, in particular, the freedom of speech and exercise of religion.
- c) Nothing in this chapter shall require the preferential treatment of any person or group on the basis of race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, sexual orientation or gender identity.

Sec 9.381 Definitions

For purposes of this chapter, the following words and phrases shall have the following meanings:

- (a) *Age* means chronological age.

- (b) *Discriminate* means to make a decision, offer to make a decision or refrain from making a decision based in whole or in part on the actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity of another person.

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:

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

Discrimination based on actual or perceived physical or mental disability includes discrimination because of the use by an individual of adaptive devices or aids.

- (c) *Family Status* means one or more individuals under the age of 18 residing with a parent or other person having custody or in the process of securing legal custody of the individual or individuals or residing with the designee of the parent or other person having or securing custody, with the written permission of the parent or such other person. For purpose of this definition, parent includes a person who is pregnant.
- (d) *Gender Identity* means a person's actual or perceived gender, including a person's self-image, appearance, expression, or behavior, whether or not that self-image, appearance, expression, or behavior is different from that traditionally associated with the person's biological sex as assigned at birth as being either female or male.
- (e) *Housing Accommodation* includes 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 the home or residence of one (1) or more persons.
- (f) *Marital Status* means the state of being married, unmarried, divorced or widowed.

- (g) *Person* means an individual, agent, association, corporation, partnership, receiver, trust, unincorporated organization, a political subdivision of the state or an agency of the state, or any other legal or commercial entity.
- (h) *Physical or Mental Disability* means a determinable physical or mental characteristic resulting from disease, injury, congenital condition of birth, or functional disorder which is unrelated to one's ability to competently perform the work involved in jobs or positions available to such person for hire or promotion; or unrelated to one's ability to acquire, rent, and maintain property; or unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges, and accommodations of a place of public accommodation. *Physical or Mental Disability* does not include any condition caused by the use of a controlled substance or the use of alcoholic liquor by an individual.
- (i) *Place of Public Accommodation* means a business, or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.
- (j) *Real Property* includes a building, structure, home, mobile home, real estate, land, mobile home park, tenement, leasehold or an interest in a real estate cooperative or condominium.
- (k) *Real Estate Transaction* means the sale, purchase, exchange, rental or lease of real property, or an interest therein, or the listing thereof for such purpose.
- (l) *Real Estate Broker or Salesperson* means a person, whether licensed or not, who for or with the expectation of receiving a consideration lists, sells, purchases, exchanges, rents or leases real property, who negotiates or attempts to negotiate any of those activities; who holds himself out as engaged in those activities; or a person employed by or acting on behalf of a real estate broker or salesperson.
- (m) *Sexual Orientation* means male or female homosexuality, heterosexuality, or bisexuality, by orientation or practice.

Sec 9.382 Unlawful or Discriminatory Real Estate Transactions

Except as otherwise provided in this ordinance, it shall be unlawful for any person, real estate broker or salesperson to:

- (a) Discriminate in leasing, selling, or otherwise making housing accommodations available;

- (b) Encourage, discourage, discriminate, or otherwise influence any real estate transaction based on the religion, race, color, national origin, age, sex, marital status, weight, height, physical or mental disability, family status, sexual orientation, or gender identification, of the seller, purchaser, lessor or lessee, or person involved in the transaction;
- (c) Encourage, discourage, discriminate or otherwise influence any real estate transaction based on the religion, race, color, national origin, age, sex, marital status, weight, height, physical or mental disability, family status, sexual orientation, or gender identification of any person who uses, occupies or holds an interest in real property located in the block, neighborhood, or area wherein the real property contemplated in the real estate transaction is located;
- (d) Represent with intent to encourage, discourage, discriminate, or otherwise influence any real estate transaction, that a change has or will or may occur in the composition with respect to religion, race, color, national origin, age, sex, marital status, weight, height, physical or mental disability, family status, sexual orientation, or gender identification of the owners or occupants in the block, neighborhood, or area in which the real property contemplated in the real estate transaction is located or represent that this change will or may result in the lowering of property values, a decline in the quality of the schools, or an increase in criminal or antisocial behavior in the block, neighborhood or area in which the real property is located;
- (e) The provisions of paragraphs (b) through (d) shall not preclude a person, a real estate broker or salesperson from making a factual response to a direct question or a response-demanding statement provided that the question or statement is not solicited by the person, real estate broker or salesperson and provided further that the response does not express an opinion which would encourage, discourage, discriminate, or otherwise influence a real estate transaction in a manner prohibited in paragraphs (b) through (d);
- (f) Place more than one (1) “for sale” sign per seventy-five (75) feet of frontage of each street upon which the property being offered for sale shall abut;
- (g) Place any sign advertising the sale of real property on any city-owned property or any street within the city without authority, except that “open” signs relating to real property being offered for sale may be placed on city streets under the following conditions:
 - (i) For purposes of this section a street shall mean the entire width between the boundary lines of every way, and the boundary lines shall be the property lines of the abutting property owners;
 - (ii) “Open” signs shall not exceed six (6) square feet in total area and shall not exceed three (3) feet in height;
 - (iii) “Open” signs shall be placed only in the unimproved area of the street (the area between the roadway and sidewalk of the roadway and property line of abutting property, whichever the case may be);

- (iv) No more than one (1) directional “open” sign leading into a subdivision from any main arterial road is allowed during the period of an open house or houses, regardless of the number of owners or companies that have open houses for public showing. This subsection does not prohibit more than one (1) directional “open” sign at an intersection within a subdivision provided each sign is necessary to direct a visitor in a different direction to an “open” house;
 - (v) “Open” signs shall under no circumstances be placed so as to constitute a traffic hazard;
 - (vi) “Open” signs shall be displayed only between the hours of 9:00 a.m. and 7:00 p.m. and no “open” sign shall be displayed other than during the hours a house is open for public showing.
- (h) Allow a “sold” or a “for sale” sign, either alone or in conjunction with one another, to remain on residential property in either of the following situations:
- (i) For more than thirty (30) days after a purchase agreement for the sale of said property has been executed; or
 - (ii) For more than twenty four (24) hours following the closing for the purchase of said property.
- “Sold” signs shall not exceed two (2) square feet in total area;
- (i) Refer to race, color, nationality, religion, age, sex, marital status, weight, height, physical or mental disability, family status, sexual orientation, or gender identification in any advertisement offering property for sale or rental;
 - (j) Advertise for sale or rental property which is nonexistent or which is not actually for sale or rental.

Sec. 9.383 Unlawful Real Estate Solicitations

- (a) It shall be unlawful for any person, firm, partnership, association, or corporation which engages in the sale and/or listing for sale of residential real property for profit or commercial gain to solicit the sale or listing for sale for any purpose relating to the sale of any residential real property, either by telephone, through the mail, in person or by any other method after the owner of such property has indicated through written notice a desire not to be solicited in accordance with the procedure outlined in this section.
- (b) The city information center shall make available, upon request, forms for the use by the owner of such residential property. The owner shall sign the form listing the address of the property and specifically state that he or she does not wish to be solicited.
- (c) The city information center shall maintain a record of listings concerning the aforementioned request forms, which listings shall be available for public inspection during business hours.

- (d) The filing of the request forms with the city information center shall serve as notice to all persons, firms, partnerships, associations or corporations who solicit for the sale or listing for sale of residential property within the city that the owner of the residential property does not wish to be solicited.
- (e) The city information center shall on a monthly basis compile and maintain a list of owners of such residential properties and shall, upon request, make the list available to all persons, firms, partnerships, associations or corporations who solicit for the sale or listing for sale of residential real property within the city.
- (f) The city information center shall remove the owner's request form from its records upon the issuance of the next succeeding monthly listing:
 - (i) after the owner's written request to do so; or
 - (ii) after receiving written notice of a change or ownership of the residential property; or
 - (iii) after five (5) years from the date of filing the request form with the city.
- (g) The owner shall be free to renew his or her request form upon the expiration of five (5) years.
- (h) A person who solicits by any of the above-described means the sale of residential real property for the personal use or occupancy by him or herself or members of his or her immediate family shall be exempt from the provisions of this section.
- (i) No person, firm, partnership, association, or corporation shall be considered in violation of this section after the owner publicly offers or advertises the real property for sale.

Sec. 9.384 Unlawful Discrimination By Lending Institutions or Finance Companies

It shall be unlawful for any lending institution or finance company to discriminate on the basis of race, color, religion, sex, national origin, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity, in the financing or lending of money or credit in the sale or transfer of real property.

Sec. 9.385 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.

Sec. 9.386 Discriminatory Employment Practices

No person shall discriminate in the employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any person.

Sec. 9.387 Exceptions

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

- (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 involved or to restrict employment opportunities for officers, religious instructors and clergy to persons of that denomination.

- (2) For the owner of an owner-occupied 1-family or 2-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.
- (3) 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 have a physical or mental disability.
- (4) To discriminate based on a person's age when such discrimination is required by state, federal or local law.
- (5) To refuse to enter into a contract with an unemancipated minor.
- (6) To refuse to admit to a place of public accommodation serving alcoholic beverages a person under the legal age for purchasing alcoholic beverages.
- (7) To refuse to admit persons under eighteen (18) years of age to a business providing entertainment or selling literature which the operator of such business deems unsuitable for minors.
- (8) For an educational institution to limit the use of its facilities to those affiliated with such institution.
- (9) To provide discounts on products or service to students, minors and senior citizens.
- (10) To discriminate in any arrangement for the sharing of a dwelling unit.
- (11) To restrict use of lavatories and locker room facilities on the basis of sex.
- (12) For a governmental institution to restrict any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to federal and state laws and regulations.
- (13) To restrict participation in an instructional program, athletic event or on an athletic team on the basis of age or sex.

Sec. 9.388 Violations of Chapter

- (a) Any person or persons claiming to be aggrieved by a discriminatory practice or conduct covered by this Chapter shall file a written complaint with the City Attorney's office within 60 days of the occurrence of the alleged discriminatory act.
- (b) A violation of this Chapter shall constitute a municipal civil infraction, and shall subject the violator to the civil fines and penalties as provided in Section 1.703 of Chapter 15 of the City Code.
- (c) Each day upon which a violation occurs shall constitute a separate violation.
- (d) No civil infraction shall be issued for any violation of this Chapter except by written authorization of the City Attorney's office. In lieu of authorizing the issuance of a civil infraction, in appropriate circumstances, the City Attorney may refer the matter to the Michigan Department of Civil Rights, the Oakland County Prosecutor, the United States Department of Justice, the United States Equal Employment Opportunity Commission, or other applicable enforcing agency.
- (e) Nothing contained in this Chapter shall be construed to limit in any way the remedies, legal or equitable, which are available to the City or any person for the prevention or correction of unlawful discrimination. Private actions and remedies shall be in addition to any actions for a violation of this Chapter which the City may take.

SECTION 2

Should any section, subsection, clause, or paragraph of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same will not affect the validity of the Ordinance as a whole or part thereof other than the part so declared to be invalid.

SECTION 3

Rights and duties which have matured; penalties which have been incurred; proceedings which have begun and prosecutions for violations of law occurring before the effective date of this Ordinance are not affected or abated by this Ordinance.

SECTION 4

All ordinances, parts of ordinances, or codes in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 5

This ordinance shall become effective upon passage and publication.

DONALD F. FRACASSI, Mayor

NANCY L.M. BANKS, City Clerk

Introduced: 01/26/2015

Enacted: 02/23/2015

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