

Submitted: ASSEMBLY MEMBER EVANS
Prepared by: Assembly Member Evans
For reading: August 25, 2015

**ANCHORAGE, ALASKA
AO No. 2015-**

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING TITLE 5 OF THE ANCHORAGE MUNICIPAL CODE REGARDING EQUAL RIGHTS AND THE ANCHORAGE EQUAL RIGHTS COMMISSION (AERC) TO ADD SEXUAL ORIENTATION AND GENDER IDENTITY TO THE PROHIBITED GROUNDS FOR DISCRIMINATION, TO EXPAND AND CLARIFY THE RELIGIOUS EXEMPTIONS, AND TO MODIFY THE LAWYER'S ROLE AND AN EVIDENTIARY RULE AT AERC HEARINGS.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 5.10.010 is hereby amended to read as follows:

5.10.010 Policy.

The public policy of the municipality is declared to be equal opportunity for all persons. The assembly finds that invidious discrimination in the sale or rental of real property, financing practices, employment practices, public accommodations, educational institutions, and practices of the municipality, based upon race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability, adversely affects the welfare of the community. Accordingly, such discrimination is prohibited.

It is the express intent of this title to guarantee fair and equal treatment under law to all people of the Municipality, consistent with federal and state constitutional freedoms and laws, including freedom of expression, freedom of association and the free exercise of religion.

(AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 1, 10-15-93; Ord. No. 2002-163, § 1, 1-7-03)

Section 2. Anchorage Municipal Code section 5.20.010, Definitions, is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

5.20.010 Definitions.

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1 *** *** ***

2 *Blockbusting* means any effort, for profit, to induce or attempt to induce a
3 person to sell or rent a dwelling based on representations that a change
4 has occurred, or will or may occur regarding the entry into a block,
5 neighborhood or area, in which the real property is located, of a person or
6 persons of a particular race, color, sex, sexual orientation, gender identity,
7 religion, national origin, marital status, age, or physical or mental disability,
8 including but not limited to lower property values, an increase in criminal or
9 antisocial behavior or decline in the quality of the schools or other facilities.

10 *** *** ***

11 *Discrimination* means any direct or indirect act or practice of exclusion,
12 distinction, restriction, segregation, limitation, refusal or denial or any other
13 act or practice of differentiation or preference in the treatment of a person
14 because of actual or perceived race, color, religion, national origin, age,
15 sex, sexual orientation, gender identity, marital status, or physical or mental
16 disability, or the aiding, abetting, inciting, coercing or compelling thereof.

17 *** *** ***

18 *Gender Identity* means a person's gender-related self-identity, appearance,
19 expression or behavior, regardless of the person's assigned sex at birth.

20 *Sexual orientation* means actual or perceived heterosexuality,
21 homosexuality, bisexuality, or asexuality.

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26 (AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 2, 10-15-93; AO No. 96-99, §
27 1, 10-22-96; Ord. No. 2002-163, § 2, 1-7-03)

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29 **Section 3.** Anchorage Municipal Code section 5.20.020 is hereby amended to
30 read as follows (*the remainder of the section is not affected and therefore not set*
31 *out*):

32
33 **5.20.020 Unlawful practices in the sale, rental or use of real**
34 **property.**

35
36 A. With the exception of those conditions described in section
37 5.25.030A. as "lawful practices", [i]it is unlawful for the owner, lessor,
38 manager, agent, brokerage service, or other person having the right
39 to sell, lease, rent, advertise, or an owner's association having the
40 powers of governance and operation of real property to:

- 41
42 1. Refuse to sell, lease or rent, or to otherwise make
43 unavailable, the real property to a person because of race,
44 color, sex, sexual orientation, gender identity, religion,

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national origin, marital status, age, or physical or mental disability.

2. Discriminate against a person because of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability in a term, condition or privilege relating to the use, sale, lease or rental of real property.
3. Make a written or oral inquiry or record of the race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability of a person seeking to buy, lease or rent real property.
4. Offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or sources in connection therewith because of a person's race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability.
5. Represent to a person that real property is not available for inspection, sale, rental or lease when in fact it is available, or refuse a person the right to inspect real property, because of the race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability of that person or because of any person associated with that person.
6. Engage in blockbusting for profit.
7. Circulate, issue or display, make, print or publish, or cause to be made or displayed, printed or published, any communication, sign, notice, statement or advertisement with respect to the use, sale, lease or rental of real property that indicates any preference, limitation, specification or discrimination based on race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability.

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(CAC 8.36.090; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03; AO No. 2008-16, § 1, 3-18-08)

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2 **Section 4.** Anchorage Municipal Code section 5.20.030 is hereby amended to
3 read as follows (*the remainder of the section is not affected and therefore not set*
4 *out*):

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6 **5.20.030 Unlawful financing practices.**

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8 A. It is unlawful for an insurance company, a financial institution or other
9 commercial institution extending secured or unsecured credit, upon
10 receiving an application for financial assistance or credit for the
11 acquisition, construction, rehabilitation, repair or maintenance of a
12 housing accommodation or other property or services, or the
13 acquisition or improvement of unimproved property, or upon
14 receiving an application for any sort of loan of money, or upon
15 receiving an application for insurance, to permit one of its officials or
16 employees during the execution of his or her duties to:

- 17
18 1. Discriminate against the applicant because of race, color, sex,
19 sexual orientation, gender identity, religion, national origin,
20 marital status, age, or physical or mental disability, in a term,
21 condition or privilege relating to the obtainment or use of the
22 institution's financial assistance, insurance or credit.
23
24 2. Make or cause to be made a written or oral inquiry or record
25 of the race, color, sex, sexual orientation, gender identity,
26 religion, national origin, marital status, age, or physical or
27 mental disability, of a person seeking the institution's financial
28 assistance, insurance or credit unless the inquiry is for the
29 purpose of ascertaining the applicant's creditworthiness or
30 insurability.
31
32 3. Refuse to extend credit, issue a credit card, insure or make a
33 loan to a single, divorced, pregnant or married person who is
34 otherwise creditworthy, if so requested by the person, or to
35 refuse to extend credit, issue a credit card, insure or make a
36 loan to a creditworthy person based on that person's sexual
37 orientation or gender identity.

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40 (CAC 8.38.020; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03)

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42 **Section 5.** Anchorage Municipal Code section 5.20.040 is hereby amended to
43 read as follows (*the remainder of the section is not affected and therefore not set*
44 *out*):

5.20.040 Unlawful employment practices.

A. It is unlawful for:

1. An employer to refuse employment to a person, or to bar him or her from employment, or to discriminate against him or her in compensation, or in a term, condition or privilege of employment or to discharge, expel, reduce, suspend or demote him or her because of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability, unless the reason for the discrimination is a bona fide occupational qualification.
2. A labor organization to exclude or to expel a person from its membership or to discriminate against one of its members or an employer or employee because of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability.
3. A person, employer or employment agency to broadcast, publish, print, circulate or cause to be broadcasted, published, printed or circulated a statement or advertisement in connection with prospective employment, or to use a form of application for employment that expresses, directly or indirectly, a limitation, specification, preference or discrimination as to race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability.

*** *** ***
(CAC 8.40.040; AO No. 92-116(S); AO No. 93-99; AO No. 93-77; AO No. 93-149,
§ 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03)

Section 6. Anchorage Municipal Code section 5.20.050 is hereby amended to read as follows:

5.20.050 Unlawful practices in places of public accommodation.

- A. It is unlawful for a person, whether the owner, operator, agent or employee of an owner or operator of a public accommodation, to:
1. Refuse, withhold from or deny to a person any of its accommodations, advantages, facilities, benefits, privileges, services or goods of that place on account of race, color, sex,

1 sexual orientation, gender identity, religion, national origin,
2 marital status, age or physical or mental disability.

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4 2. Publish, circulate, issue, display, post or mail a written or
5 printed communication, notice or advertisement which states
6 or implies that:

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8 a. Any of the services, goods, facilities, benefits,
9 accommodations, advantages or privileges of the
10 public accommodation will be refused, withheld from or
11 denied to a person of a certain race, color, sex, sexual
12 orientation, gender identity, religion, national origin,
13 marital status, age, or physical or mental disability; or

14
15 b. The patronage or presence of a person belonging to a
16 particular race, color, sex, sexual orientation, gender
17 identity, religion, national origin, marital status, age, or
18 physical or mental disability is unwelcome, not desired,
19 not solicited, objectionable or unacceptable.

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21 3. Make a written or oral inquiry concerning the race, color, sex,
22 sexual orientation, gender identity, religion, national origin,
23 marital status, age, or physical or mental disability of an
24 individual in connection with the solicitation, reservation,
25 booking, sale or dispensing of its accommodations,
26 advantages, facilities, benefits, privileges, services or goods.

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28 (CAC 8.40.020; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-
29 03)

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31 **Section 7.** Anchorage Municipal Code section 5.20.060 is hereby amended to
32 read as follows:

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34 **5.20.060 Unlawful practices in educational institutions.**

35
36 A. It is unlawful for a person operating or assisting in the operation of an
37 educational institution to:

38
39 1. Refuse to admit or otherwise to discriminate against an
40 individual with respect to the terms, conditions,
41 accommodations, advantages, facilities, benefits, privileges or
42 services of that institution on account of race, color, sex,
43 sexual orientation, gender identity, religion, national origin,
44 marital status, age, or physical or mental disability.

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2. Make or use a written or oral inquiry or form of application for admission that elicits information concerning the race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability, of an applicant for admission.
3. Require or cause to be required that a photograph of an applicant for admission be submitted with an application for admission.
4. Publish, circulate or display, or cause to be published, circulated or displayed, a written, printed, oral or visual communication, advertisement or catalog or any other form of publicity relating to admission that expresses or indicates a preference, limitation, specification or discrimination on account of the race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability, of an applicant for admission.
5. Establish, announce or follow a policy of denial or limitation of education opportunities for members of a group on account of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability.
6. Use in the recruitment of potential applicants for admission, a service or agency that discriminates against individuals on account of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability.

(CAC 8.40.030; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 4, 1-7-03)

Section 8. Anchorage Municipal Code section 5.20.070 is hereby amended to read as follows:

5.20.070 Unlawful practices by municipality.

- A. It is unlawful for the municipality or any public agency of the municipality to:
 1. Refuse, withhold from or deny to a person any local, state or federal funds, services, goods, facilities, advantages or privileges because of race, color, sex, sexual orientation,

1 gender identity, religion, national origin, marital status, age, or
2 physical or mental disability.

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4 2. Publish, circulate, issue, display, post or mail a written or
5 printed communication, notice or advertisement which states
6 or implies that any local, state or federal funds, services,
7 goods, facilities, advantages or privileges of the office or
8 agency will be refused, withheld from or denied to a person of
9 a certain race, color, sex, sexual orientation, gender identity,
10 religion, national origin, marital status, age, or physical or
11 mental disability, or that the patronage of a person belonging
12 to a particular race, color, sex, sexual orientation, gender
13 identity, religion, national origin, marital status, age, or
14 physical or mental disability is unwelcome, not desired or not
15 solicited.

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17 B. Where the provisions of this section 5.20.070 conflict with provisions
18 of Title 7 of this code, this section 5.20.070 shall govern.

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20 (AO No. 91-173(S); AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 2, 10-15-
21 93; AO No. 2002-163, § 5, 1-7-03)

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23 **Section 9.** Anchorage Municipal Code section 5.20.080 is hereby amended to
24 read as follows:

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26 **5.20.80 Lawful practices.**

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28 A. Notwithstanding any provision of this chapter, it shall not be unlawful
29 for a person in connection with the sale or rental of real property,
30 financing practices, employment practices, public accommodations,
31 educational institutions, and practices of the municipality to make or
32 keep records identifying race, color, sex, sexual orientation, gender
33 identity, religion, national origin, marital status, age, or physical or
34 mental disability, if the purpose of the record is to comply with federal
35 or state equal opportunity laws or regulations or in furtherance of a
36 program designed to ensure compliance with this title.

37
38 B. Other provisions of this chapter notwithstanding, employers or
39 operators of public accommodations may:

- 40
41 1. Maintain and enforce gender-segregated restrooms, locker-
42 rooms or dressing rooms, and require persons to use facilities
43 appropriate to their gender presentation, and nothing in this
44 chapter shall be deemed to require the provision of special

1 facilities to accommodate any person(s) based upon sexual
2 orientation or gender identity.

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4 2. Impose reasonable dress codes, work rules, codes of
5 conduct, or other rules of general application, and nothing in
6 this chapter shall be deemed to require special
7 accommodation for persons based upon sexual orientation or
8 gender identity.

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10 3. Require that a worker have a consistent gender presentation
11 in the workplace.

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13 (AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 7, 1-7-03)

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15 **Section 10.** Anchorage Municipal Code section 5.20.090 is hereby amended to
16 read as follows:

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18 **5.20.090 Religious exemptions.**

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20 A. Religious-Preference Exception: It shall be lawful for a bona fide
21 religious or denominational institution, organization, corporation,
22 association, educational institution, or society, to limit, select or give
23 preferential treatment in employment, admissions, accommodations,
24 advantages, facilities, benefits, or services, to persons of the same
25 religion or denomination, that is reasonably calculated to promote the
26 religious principles for which it is established or maintained[.], and
27 this title shall not be interpreted or applied to require such an
28 organization to act in violation of the religious principles for which it is
29 established or maintained. Such organizations otherwise remain
30 subject to the other provisions in this title with regard to race, color,
31 sex, sexual orientation, gender identity, religion, national origin,
32 marital status, age, or physical or mental disability.

33
34 B. Ministerial exemption: This chapter shall not apply with respect to the
35 employment of individuals whose primary duties consist of teaching
36 or spreading religious doctrine or belief, religious governance,
37 supervision of a religious order, supervision of persons teaching or
38 spreading religious doctrine or belief, or supervision or participation
39 in religious ritual or worship.

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41 C. Religious conscience exemption: Except as a condition of a pre-
42 existing employment or contractual relationship, no person, employer
43 or operator of a public accommodation shall be compelled to make
44 any communication in support of, or be compelled to appear at any
45 ceremony, ritual, or observance that is in conflict with a sincerely

1 held and demonstrable religious belief of that person, employer or
2 operator.

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4 (AO No. 92-116(S); AO No. 93-99; AO No. 2002-163, § 4, 1-7-03)

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6 **Section 11.** Anchorage Municipal Code section 5.50.020, is hereby amended to
7 read as follows (*the remainder of the section is not affected and therefore not set*
8 *out*):
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10 **5.50.020 Fact finding procedures.**

11
12 A. After a complaint has been filed, staff shall convene a fact finding
13 conference with the parties to define issues, receive and exchange
14 information relevant to the complaint and response, if any, and
15 negotiate a voluntary resolution of the complaint, if possible, through
16 a pre-determination settlement agreement. Parties shall be
17 permitted to be fully represented by legal counsel at the fact finding
18 conference. Legal counsel shall be entitled to speak and present on
19 behalf of the represented party at the fact finding conference. Legal
20 counsel may not, however, cross-examine the other party and must
21 submit any questions through staff.

22 *** *** ***

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24 D. (Reserved) [IF COUNSEL FOR ANY PARTY IS PRESENT,
25 COUNSEL SHALL BE LIMITED TO AN ADVISORY ROLE AND
26 WILL NOT BE PERMITTED TO SPEAK FOR THEIR CLIENT. FOR
27 QUESTIONING PURPOSES, COUNSEL MAY ASK QUESTIONS
28 ONLY THROUGH STAFF.]

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31 (AO No. 92-223(S); AR No. 96-174, § 3, 10-22-96; AO No. 2002-163, § 15,
32 1-7-03)

33
34 **Section 12.** Anchorage Municipal Code section 5.50.030, is hereby amended to
35 read as follows (*the remainder of the section is not affected and therefore not set*
36 *out*):
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38 **5.50.030 Effect of failure to furnish responses to requests for**
39 **essential information or produce witnesses or attend fact**
40 **finding conference.**

41 *** *** ***

42
43 B. The Respondent's failure to participate in the fact-finding conference
44 or to provide requested information cannot be treated as an
45 admission or evidence of the allegations in the complaint. In order

