

See AO 2009-64(S-2)

Submitted by: ASSEMBLY CHAIR OSSIANDER

Prepared by: Assembly Counsel

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ANCHORAGE, ALASKA

AO NO. 2009-64(S-1)

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE CODE CHAPTERS 5.10 EQUAL RIGHTS COMMISSION AND 5.20 UNLAWFUL DISCRIMINATORY PRACTICES.

THE ANCHORAGE ASSEMBLY ORDAINS:

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

5.10.010 Policy.

A. 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~~, religion, national origin, marital status, age, ~~veteran's status~~, or physical or mental disability, adversely affects the welfare of the community. Accordingly, such discrimination is prohibited, ~~as is provided in this title, subject to~~

B. The Assembly also finds, based on public testimony, that there is or could be some level of discrimination based on a person's sexual orientation in the sale or rental of real property, financing practices, public accommodation, education, and practices of the municipality. The Assembly also finds there exists real and potential conflict between civil liberties based on sexual orientation and the Constitutional rights of freedom of expression, freedom of association, and free exercise of religion. Further, the Assembly finds these potential conflicts, as well as the discrimination which exists, adversely affect the overall welfare of the community. Accordingly, in an effort to prevent conflict, to prevent our citizens from unwarranted discrimination, and to foster further public discourse and understanding, the Assembly hereby prohibits discrimination based on sexual orientation as provided in this Title.

C. In the enforcement laws prohibiting discrimination set forth in this Title, constitutional freedoms under Alaska state and federal law, including freedom of expression, freedom of association, and free exercise of religion, shall be recognized and applied in the enforcement of this Title.

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(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 5.20.040, Powers and duties, is hereby amended to read as follows (*language indicating no amendment is included for context only; other language is unaffected and therefore not set out*):

5.10.040 Powers and duties.

A. The equal rights commission is authorized to:

*** *** ***

12. Recommend to the mayor and assembly new legislation, and adopt such procedural and evidentiary rules as are necessary to fulfill the intent of this title; and

13. Provide an annual report to the mayor and assembly, and [-]

14. Track and report complaint data on practices alleging discrimination based on heterosexuality, homosexuality, bisexuality, gender expression or gender identity which fall outside the scope of this Title in connection with the sale, rental or use of real property, financing practices, employment practices, public accommodations, educational institutions, and municipal government practices.

(CAC 2.64.330; AO No. 2002-87, § 1, 6-11-02; Ord. No. 2002-163, § 1, 1-7-03; AO No. 2006-128, § 3, 9-26-06)

Section 3 [2]. Anchorage Municipal Code 5.20.010, Definitions, is hereby amended to read as follows (*not all definitions in the referenced section are affected and therefore not every definition is set out; language indicating no amendment is included for context only*):

5.20.010 Definitions.

*** *** ***

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

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1 *Discrimination* means any direct or indirect act or practice of exclusion,
2 distinction, restriction, segregation, limitation, refusal or denial or any other act or
3 practice of differentiation or preference in the treatment of a person because of race,
4 color, religion, national origin, age, sex, sexual orientation, marital status, veteran's
5 status, or physical or mental disability, or the aiding, abetting, inciting, coercing or
6 compelling thereof, **as prohibited by this chapter.**

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8 *** *** ***

9 *Public accommodation* means any business or professional activity, with the
10 exception of a business operated in the business owner's home employing no more
11 than four persons, that is open to, accepts or solicits the patronage of, or caters or
12 offers goods or services to the general public, subject only to the conditions and
13 limitations established by law and applicable alike to all persons. **(NO CODE**
14 **AMENDMENT.)**

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17 *Sexual orientation* means actual or perceived heterosexuality, homosexuality,
18 or bisexuality or gender expression or identity. As used in this definition, "gender
19 expression or identity" means having or being perceived as having a self image,
20 appearance, or behavior different from that traditionally associated with the sex
21 assigned to that person at birth.

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24 *Veteran* means a person who is an active member of the United States Army,
25 Air Force, Coast Guard, Marine Corps, National Guard, or organized Military
26 reserves, or a person who has separated from the military service of the United
27 States Army, Air Force, Coast Guard, Marine Corps, National Guard, or organized
28 Military reserves under conditions which are not dishonorable.

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30 (AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 2, 10-15-93; AO No. 96-99, § 1,
31 10-22-96; Ord. No. 2002-163, § 2, 1-7-03)

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33 **Section 4 [3].** Anchorage Municipal Code 5.20.020 is hereby amended to read as
34 follows (*language indicating no amendment is included for context only; other language is*
35 *unaffected and therefore not set out*):

36
37
38 **5.20.020 Unlawful practices in the sale, rental or use of real property.**

39
40 A. With the exception of the practices identified in AMC 5.25.030.A as "lawful
41 practices," it is unlawful for the owner, lessor, manager, agent, brokerage
42 service, or other person having the right to sell, lease, rent, advertise, or an
43 owner's association having the powers of governance and operation of real
44 property to:
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1. Refuse to sell, lease or rent, or to otherwise make unavailable, the real property to a person because of race, color, sex, sexual orientation, religion, national origin, marital status, age, veteran's status, or physical or mental disability.
2. Discriminate against a person because of race, color, sex, sexual orientation, religion, national origin, marital status, age, veteran's status, 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, religion, national origin, marital status, age, veteran's status, 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, religion, national origin, marital status, age, veteran's status, 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, religion, national origin, marital status, age, veteran's status, 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, religion, national origin, marital status, age, veteran's status, or physical or mental disability.

*** *** ***
(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)

Section 5 [-4]. Anchorage Municipal Code 5.20.030 is hereby amended to read as

1 follows (*language indicating no amendment is included for context only; other language is*
2 *unaffected and therefore not set out*):

3
4 **5.20.030 Unlawful financing practices.**

5
6 A. It is unlawful for an insurance company, a financial institution or other
7 commercial institution extending secured or unsecured credit, upon receiving
8 an application for financial assistance or credit for the acquisition, construction,
9 rehabilitation, repair or maintenance of a housing accommodation or other
10 property or services, or the acquisition or improvement of unimproved
11 property, or upon receiving an application for any sort of loan of money, or
12 upon receiving an application for insurance, to permit one of its officials or
13 employees during the execution of his or her duties to:

- 14
15 1. Discriminate against the applicant because of race, color, sex, sexual
16 orientation, religion, national origin, marital status, age, veteran's status,
17 or physical or mental disability, in a term, condition or privilege relating
18 to the obtainment or use of the institution's financial assistance,
19 insurance or credit.
20
21 2. Make or cause to be made a written or oral inquiry or record of the race,
22 color, sex, sexual orientation, religion, national origin, marital status,
23 age, veteran's status, or physical or mental disability, of a person
24 seeking the institution's financial assistance, insurance or credit unless
25 the inquiry is for the purpose of ascertaining the applicant's
26 creditworthiness or insurability.
27
28 3. Refuse to extend credit, issue a credit card, insure or make a loan to a
29 single, divorced, pregnant or married person who is otherwise
30 creditworthy, if so requested by the person or to refuse to extend credit,
31 issue a credit card, insure or make a loan to a creditworthy person
32 based on that person's sexual orientation.

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34 *** **

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

36
37 **Section 5.** Anchorage Municipal Code Chapter 5.20.040 is hereby amended to read as
38 follows (*other language is unaffected and therefore not set out*): **(NO CODE AMENDMENT)**

39
40 **5.20.040 Unlawful employment practices.**

41
42 A. It is unlawful for:

- 43
44 1. ~~An employer to refuse employment to a person, or to bar him or her~~
45 ~~from employment, or to discriminate against him or her in~~

1 ~~compensation, or in a term, condition or privilege of employment or to~~
2 ~~discharge, expel, reduce, suspend or demote him or her because of~~
3 ~~race, color, sex, sexual orientation, religion, national origin, marital~~
4 ~~status, age, veteran's status, or physical or mental disability, unless the~~
5 ~~reason for the discrimination is a bona fide occupational qualification.~~

6
7 ~~a. This does not apply to a business operated in the business~~
8 ~~owner's home employing no more than four persons.~~

9
10 2. ~~A labor organization to exclude or to expel a person from its~~
11 ~~membership or to discriminate against one of its members or an~~
12 ~~employer or employee because of race, color, sex, sexual orientation,~~
13 ~~religion, national origin, marital status, age, veteran's status, or physical~~
14 ~~or mental disability.~~

15
16 3. ~~A person, employer or employment agency to broadcast, publish, print,~~
17 ~~circulate or cause to be broadcasted, published, printed or circulated a~~
18 ~~statement or advertisement in connection with prospective employment,~~
19 ~~or to use a form of application for employment that expresses, directly~~
20 ~~or indirectly, a limitation, specification, preference or discrimination as~~
21 ~~to race, color, sex, sexual orientation, religion, national origin, marital~~
22 ~~status, age, veteran's status, or physical or mental disability.~~

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24 *** *** ***
25 ~~(CAC 8.40.040; AO No. 92-116(S); AO No. 93-99; AO No. 93-77; AO No. 93-149, §~~
26 ~~2, 10-15-93; AO No. 2002-163, § 3, 1-7-03)~~

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

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30 **5.20.050 Unlawful practices in places of public accommodation.**

31
32 A. It is unlawful for a person, whether the owner, operator, agent or employee of
33 an owner or operator of a public accommodation, to:

34
35 1. Refuse, withhold from or deny to a person any of its accommodations,
36 advantages, facilities, benefits, privileges, services or goods of that
37 place on account of race, color, sex, sexual orientation, religion,
38 national origin, marital status, age, veteran's status, or physical or
39 mental disability. **As applied to this prohibition only, place of**
40 **"public accommodation" does not include a home occupation or**
41 **the provision of personal care services when a complaint alleges**
42 **unlawful discrimination based upon sexual orientation.**

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

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- a. Any of the services, goods, facilities, benefits, accommodations, advantages or privileges of the public accommodation will be refused, withheld from or denied to a person of a certain race, color, sex, sexual orientation, religion, national origin, marital status, age, veteran's status, or physical or mental disability; or
- b. The patronage or presence of a person belonging to a particular race, color, sex, sexual orientation, religion, national origin, marital status, age, veteran's status, or physical or mental disability is unwelcome, not desired, not solicited, objectionable or unacceptable.
3. Make a written or oral inquiry concerning the race, color, sex, sexual orientation, religion, national origin, marital status, age, veteran's status, or physical or mental disability of an individual in connection with the solicitation, reservation, booking, sale or dispensing of its accommodations, advantages, facilities, benefits, privileges, services or goods.

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

Section 7. Anchorage Municipal Code Chapter 5.20.060 is hereby amended to read as follows (*language indicating no amendment is included for context only*):

5.20.060 Unlawful practices in educational institutions.

- A. **Except as provided in 5.20.090, Religious exemptions, i**[I]t is unlawful for a person operating or assisting in the operation of an educational institution to:
1. Refuse to admit or otherwise to discriminate against an individual with respect to the terms, conditions, accommodations, advantages, facilities, benefits, privileges or services of that institution on account of race, color, sex, sexual orientation, religion, national origin, marital status, age, veteran's status, or physical or mental disability.
 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, religion, national origin, marital status, age, veteran's status, 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.

- 1 4. Publish, circulate or display, or cause to be published, circulated or
2 displayed, a written, printed, oral or visual communication,
3 advertisement or catalog or any other form of publicity relating to
4 admission that expresses or indicates a preference, limitation,
5 specification or discrimination on account of the race, color, sex, sexual
6 orientation, religion, national origin, marital status, age, veteran's status,
7 or physical or mental disability, of an applicant for admission.
8
- 9 5. Establish, announce or follow a policy of denial or limitation of
10 education opportunities for members of a group on account of race,
11 color, sex, sexual orientation, religion, national origin, marital status,
12 age, veteran's status, or physical or mental disability.
13
- 14 6. Use in the recruitment of potential applicants for admission, a service or
15 agency that discriminates against individuals on account of race, color,
16 sex, sexual orientation, religion, national origin, marital status, age,
17 veteran's status, or physical or mental disability.
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19 (CAC 8.40.030; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 4, 1-7-03)

20
21 **Section 8.** Anchorage Municipal Code Chapter 5.20.070 is hereby amended to read as
22 follows:

23
24 **5.20.070 Unlawful practices by municipality.**

- 25
26 A. It is unlawful for the municipality or any public agency of the municipality to:
- 27
28 1. Refuse, withhold from or deny to a person any local, state or federal
29 funds, services, goods, facilities, **employment**, advantages or
30 privileges because of race, color, sex, sexual orientation, religion,
31 national origin, marital status, age, veteran's status, or physical or
32 mental disability.
33
 - 34 2. Publish, circulate, issue, display, post or mail a written or printed
35 communication, notice or advertisement which states or implies that
36 any local, state or federal funds, services, goods, facilities, advantages
37 or privileges of the office or agency will be refused, withheld from or
38 denied to a person of a certain race, color, sex, sexual orientation,
39 religion, national origin, marital status, age, veteran's status, or physical
40 or mental disability, or that the patronage of a person belonging to a
41 particular race, color, sex, sexual orientation, religion, national origin,
42 marital status, age, veteran's status, or physical or mental disability is
43 unwelcome, not desired or not solicited.
44

1 **B. Where the provisions of this section 5.20.070 conflict with provisions of**
2 **title 7, this section 5.20.070 shall govern.**
3

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

6
7 **Section 9.** Anchorage Municipal Code Chapter 5.20.080 is hereby amended to read as
8 follows:
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10 **5.20.080 Lawful practices.**

11
12 **A.** Notwithstanding any provision of this chapter, it shall not be unlawful for a
13 person in connection with the sale or rental of real property, financing
14 practices, employment practices, public accommodations, educational
15 institutions, and practices of the municipality to make or keep records
16 identifying race, color, sex, sexual orientation, religion, national origin, marital
17 status, age, ~~veteran's status~~, or physical or mental disability, if the purpose of
18 the record is to comply with federal or state equal opportunity laws or
19 regulations or in furtherance of a program designed to ensure compliance with
20 this title.

21
22 **B.** **Other provisions of this chapter notwithstanding, employers or**
23 **operators of public accommodations may maintain and enforce gender-**
24 **segregated restrooms. The prohibition of discrimination based on sexual**
25 **orientation imposed by this chapter does not apply to discrimination because**
26 **of one's biological gender in matters such as access to restrooms, nor does it**
27 **change the rights of employers and operators of public accommodations to**
28 **impose**

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30 **C.** **Provisions of this chapter shall not prevent employers and operators of**
31 **public accommodations from imposing reasonable dress codes, work**
32 **rules, codes of conduct, or other rules of general application.**

33
34 **D.** **Prohibitions under this chapter shall not be construed as mandating**
35 **preferential treatment or quotas based on sexual orientation.**

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

38
39 **Section 10.** Anchorage Municipal Code Chapter 5.20.090 is hereby amended to read as
40 follows:
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42 **5.20.090 Religious exemptions.**

43
44 It shall be lawful for a bona fide religious or denominational institution, organization,
45 corporation, association, educational institution, or society, to limit, select or give

1 preferential treatment in employment, admissions, accommodations, advantages,
2 facilities, benefits, or services, ~~to persons of the same religion or denomination, that if~~
3 **the action** is reasonably calculated to promote the religious principles for which it is
4 established or maintained. **The Equal Rights Commission may not examine the**
5 **genuineness of a proffered religious reason by such organizations, otherwise**
6 ~~remain subject to the other provisions in this title with regard to race, color, sex,~~
7 ~~sexual orientation, religion, national origin, marital status, age, veteran's status, or~~
8 ~~physical or mental disability.~~

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

11
12 **Section 11.** This ordinance shall become effective immediately upon its passage and
13 approval by the Assembly.

14
15
16 PASSED AND APPROVED by the Anchorage Assembly this _____ day of
17 _____, 2009.

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20 _____
21 Chair

22 ATTEST:

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24 _____
25 Municipal Clerk
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