

CLERK'S OFFICE
AMENDED AND APPROVED

Date: 8-11-09

Submitted by: ASSEMBLY MEMBER FLYNN
Reviewed by: Assembly Counsel
For reading: August 11, 2009

IMMEDIATE RECONSIDERATION
FAILED 8-11-09; VETOED
8-17-09; NO ASSEMBLY
ACTION TAKEN 9-8-09

**ANCHORAGE, ALASKA
AO NO. 2009-64(S-2)**

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

WHEREAS, for clarity and ease of reference, amendments are shown relative to current code, and do not reflect all comparative differences between AO No. 2009-64(S-2) and three earlier versions: AO 2009-64; -64(S); and -64(S-1); now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code 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, religion, national origin, marital status, age, [OR] physical or mental disability, **sexual orientation or gender identity** 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 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,

1 in which the real property is located, of a person or persons of a particular race, color,
2 sex, religion, national origin, marital status, age, [OR] physical or mental disability,
3 **sexual orientation or gender identity** including but not limited to lower property
4 values, an increase in criminal or antisocial behavior or decline in the quality of the
5 schools or other facilities.

6 *** **

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

13 *** **

14 **Gender identity** means having a self-image, appearance, or behavior
15 **different from that traditionally associated with the sex assigned to that person**
16 **at birth, or the expression of that gender identity, and covers pre- and post-**
17 **operative transsexuals, as well as other persons who are transgendered and**
18 **have a reasonably consistent gender presentation.**

19 *** **

20 **Sexual orientation** means an individual's heterosexuality, homosexuality,
21 **or bisexuality.**

22 *** **

23 *Unlawful discriminatory act or practice* means an act or practice prohibited by
24 Anchorage. **Nothing in this chapter is intended to permit any criminal act**
25 **prohibited by federal, state, or local law.**

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

28 **Section 3.** Anchorage Municipal Code 5.20.020 is hereby amended to read as follows
29 (language indicating no amendment is included for context only; other language is
30 unaffected and therefore not set out):

31 **5.20.020 Unlawful practices in the sale, rental or use of real property.**

32
33 A. **With the exception of the practices identified in AMC 5.25.030A. as "lawful**
34 **practices,"** it is unlawful for the owner, lessor, manager, agent, brokerage
35 service, or other person having the right to sell, lease, rent, advertise, or an
36 owner's association having the powers of governance and operation of real
37 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, religion, national origin, marital status, age, [OR] physical or mental disability, **sexual orientation or gender identity**.
2. Discriminate against a person because of race, color, sex, religion, national origin, marital status, age, [OR] physical or mental disability, **sexual orientation or gender identity** 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, religion, national origin, marital status, age, [OR] physical or mental disability, **sexual orientation or gender identity** 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, religion, national origin, marital status, age, [OR] physical or mental disability, **sexual orientation or gender identity**.
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, religion, national origin, marital status, age, [OR] physical or mental disability, **sexual orientation or gender identity** 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, religion, national origin, marital status, age, [OR] physical or mental disability, **sexual orientation or gender identity**.

*** *** ***

(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 4. Anchorage Municipal Code 5.20.030 is hereby amended to read as follows

1 (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, religion,
16 national origin, marital status, age, [OR] physical or mental disability,
17 **sexual orientation or gender identity** in a term, condition or privilege
18 relating 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, religion, national origin, marital status, age, [OR] physical or
23 mental disability, **sexual orientation or gender identity** 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 or gender identity**.

33
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):

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, religion, national origin, marital status, age, [OR]
4 physical or mental disability, **sexual orientation or gender identity**
5 unless the reason for the discrimination is a bona fide occupational
6 qualification.

7
8 2. A labor organization to exclude or to expel a person from its
9 membership or to discriminate against one of its members or an
10 employer or employee because of race, color, sex, religion, national
11 origin, marital status, age, [OR] physical or mental disability, **sexual**
12 **orientation or gender identity.**

13
14 3. A person, employer or employment agency to broadcast, publish, print,
15 circulate or cause to be broadcasted, published, printed or circulated a
16 statement or advertisement in connection with prospective employment,
17 or to use a form of application for employment that expresses, directly
18 or indirectly, a limitation, specification, preference or discrimination as
19 to race, color, sex, religion, national origin, marital status, age, [OR]
20 physical or mental disability, **sexual orientation or gender identity.**

21
22 *** **

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

25
26 **Section 6.** Anchorage Municipal Code 5.20.050 is hereby amended to read as follows:

27
28 **5.20.050 Unlawful practices in places of public accommodation.**

29
30 A. It is unlawful for a person, whether the owner, operator, agent or employee of
31 an owner or operator of a public accommodation, to:

32
33 1. Refuse, withhold from or deny to a person any of its accommodations,
34 advantages, facilities, benefits, privileges, services or goods of that
35 place on account of race, color, sex, religion, national origin, marital
36 status, age, [OR] physical or mental disability, **sexual orientation or**
37 **gender identity.**

38
39 2. Publish, circulate, issue, display, post or mail a written or printed
40 communication, notice or advertisement which states or implies that:

41
42 a. Any of the services, goods, facilities, benefits, accommodations,
43 advantages or privileges of the public accommodation will be
44 refused, withheld from or denied to a person of a certain race,
45 color, sex, religion, national origin, marital status, age, [OR]

1 physical or mental disability, **sexual orientation or gender**
2 **identity**; or

3
4 b. The patronage or presence of a person belonging to a particular
5 race, color, sex, religion, national origin, marital status, age, [OR]
6 physical or mental disability, **sexual orientation or gender**
7 **identity** is unwelcome, not desired, not solicited, objectionable
8 or unacceptable.

9
10 3. Make a written or oral inquiry concerning the race, color, sex, religion,
11 national origin, marital status, age, [OR] physical or mental disability,
12 **sexual orientation or gender identity** of an individual in connection
13 with the solicitation, reservation, booking, sale or dispensing of its
14 accommodations, advantages, facilities, benefits, privileges, services or
15 goods.

16
17 (CAC 8.40.020; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03)

18
19 **Section 7.** Anchorage Municipal Code Chapter 5.20.060 is hereby amended to read as
20 follows (*language indicating no amendment is included for context only*):

21
22 **5.20.060 Unlawful practices in educational institutions.**

23
24 A. It is unlawful for a person operating or assisting in the operation of an
25 educational institution to:

26
27 1. Refuse to admit or otherwise to discriminate against an individual with
28 respect to the terms, conditions, accommodations, advantages,
29 facilities, benefits, privileges or services of that institution on account of
30 race, color, sex, religion, national origin, marital status, age, [OR]
31 physical or mental disability, **sexual orientation or gender identity**.

32
33 2. Make or use a written or oral inquiry or form of application for admission
34 that elicits information concerning the race, color, sex, religion, national
35 origin, marital status, age, [OR] physical or mental disability, **sexual**
36 **orientation or gender identity** of an applicant for admission.

37
38 3. Require or cause to be required that a photograph of an applicant for
39 admission be submitted with an application for admission.

40
41 4. Publish, circulate or display, or cause to be published, circulated or
42 displayed, a written, printed, oral or visual communication,
43 advertisement or catalog or any other form of publicity relating to
44 admission that expresses or indicates a preference, limitation,
45 specification or discrimination on account of the race, color, sex,

1 religion, national origin, marital status, age, [OR] physical or mental
2 disability, **sexual orientation or gender identity** of an applicant for
3 admission.
4

5 5. Establish, announce or follow a policy of denial or limitation of
6 education opportunities for members of a group on account of race,
7 color, sex, religion, national origin, marital status, age, [OR] physical or
8 mental disability, **sexual orientation or gender identity**.
9

10 6. Use in the recruitment of potential applicants for admission, a service or
11 agency that discriminates against individuals on account of race, color,
12 sex, religion, national origin, marital status, age, [OR] physical or mental
13 disability, **sexual orientation or gender identity**.
14

15 (CAC 8.40.030; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 4, 1-7-03)
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17 **Section 8.** Anchorage Municipal Code Chapter 5.20.070 is hereby amended to read as
18 follows:
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20 **5.20.070 Unlawful practices by municipality.**
21

22 A. It is unlawful for the municipality or any public agency of the municipality to:
23

24 1. 1. Refuse, withhold from or deny to a person any local, state or
25 federal funds, services, goods, facilities, advantages or privileges
26 because of race, color, sex, religion, national origin, marital status, age,
27 [OR] physical or mental disability, **sexual orientation or gender**
28 **identity**.
29

30 2. Publish, circulate, issue, display, post or mail a written or printed
31 communication, notice or advertisement which states or implies that
32 any local, state or federal funds, services, goods, facilities, advantages
33 or privileges of the office or agency will be refused, withheld from or
34 denied to a person of a certain race, color, sex, religion, national origin,
35 marital status, age, [OR] physical or mental disability, **sexual**
36 **orientation or gender identity**, or that the patronage of a person
37 belonging to a particular race, color, sex, religion, national origin,
38 marital status, age, [OR] physical or mental disability, **sexual**
39 **orientation or gender identity** is unwelcome, not desired or not
40 solicited.
41

42 B. Where the provisions of this section 5.20.070 conflict with provisions of AMC
43 title 7, this section 5.20.070 shall govern.
44

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

Section 9. Anchorage Municipal Code Chapter 5.20.080 is hereby amended to read as follows:

5.20.080 Lawful practices.

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

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

- 1. Maintain and enforce gender-segregated restrooms, and nothing in this chapter shall be deemed to require the provision of special facilities to accommodate sexual orientation or gender identity.**
- 2. Impose reasonable dress codes, work rules, codes of conduct, or other rules of general application, and nothing in this chapter shall be deemed to require special accommodation for sexual orientation or gender identity.**
- 3. Require that a worker have reasonably consistent gender presentation in the workplace.**

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

Section 10. Anchorage Municipal Code Chapter 5.20.090 is hereby amended to read as follows:

5.20.090 Religious exemptions.

A. Religious doctrine exemption: This chapter shall not apply to the employment practices or membership requirements of a religious corporation, association, educational institution, or society which has as its primary purpose religious ritual or worship or the teaching or spreading of religious doctrine or belief.

1
2 **B. Religious organization exemption:** Under this chapter, a religious
3 corporation, association, educational institution, or society which does
4 not have as its primary purpose religious ritual or worship or the
5 teaching or spreading of religious doctrine or belief, may uniformly
6 require, as a condition of employment or membership, conformance with
7 all religious tenets that such corporation, association, institution, or
8 society declares significant. The declaration, by a religious corporation,
9 association, educational institution or society stating which of its
10 religious tenets are significant, shall not be subject to judicial or
11 administrative review.

12
13 **C. Ministerial exemption:** For any religious corporation, association,
14 educational institution, or society that is not exempt under subsection A,
15 this chapter shall not apply with respect to the employment of
16 individuals whose primary duties consist of teaching or spreading
17 religious doctrine or belief, religious governance, supervision of a
18 religious order, supervision of persons teaching or spreading religious
19 doctrine or belief, or supervision or participation in religious ritual or
20 worship.

21
22 **D. Religious preference exemption:** It shall be lawful for a [BONA FIDE]
23 religious or denominational institution, organization, corporation, association,
24 educational institution, or society, to limit, select or give preferential treatment
25 in employment, admissions, accommodations, advantages, facilities, benefits,
26 or services, to persons of the same religion or denomination, that is
27 reasonably calculated to promote the religious principles for which it is
28 established or maintained. [SUCH ORGANIZATIONS OTHERWISE REMAIN
29 SUBJECT TO THE OTHER PROVISIONS IN THIS TITLE WITH REGARD TO
30 RACE, COLOR, SEX, RELIGION, NATIONAL ORIGIN, MARITAL STATUS,
31 AGE, OR PHYSICAL OR MENTAL DISABILITY.]

32
33 (AO No. 92-116(S); AO No. 93-99; AO No. 2002-163, § 4, 1-7-03)

34
35 **Section 11.** This ordinance shall become effective immediately upon its passage and
36 approval by the Assembly.

37
38 PASSED AND APPROVED by the Anchorage Assembly this 11th day of
39 August, 2009.

40
41 
42 Chair
43

ATTEST:

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Barbara S. Gmelin
Municipal Clerk

*M. Assembly Letter John
9/2/09*



**MUNICIPALITY OF ANCHORAGE
MEMORANDUM**

DATE : August 17, 2009
TO : Anchorage Assembly
FROM : Mayor Dan Sullivan *Dan Sullivan*
SUBJECT : Veto of Assembly Ordinance 2009-64 (S-2) as amended

On August 11, 2009, the Anchorage Assembly passed AO2009-64 (S-2) as amended.

I have reviewed the ordinance, heard the Assembly justifications for and against the ordinance, and understand the sentiments expressed during the many hours of public testimony. Since the passage, I have received nearly 2,500 additional communications from Anchorage residents. I thank all of those who took the time to participate in the process.

My review shows that there is clearly a lack of quantifiable evidence necessitating this ordinance. My review also shows that the vast majority of those who communicated their position on the ordinance are in opposition.

As elected officials, we are charged with reflecting the will of the community in our decisions, particularly in the absence of compelling data that would supersede that will.

Therefore, I hereby veto AO2009-64 (S-2) as amended.

M.O.A.
2009 AUG 17 PM 2:20
CLENDS OFFICE