



AGENDA
AD HOC COMMITTEE ON DIVERSITY
Friday, July 8, 2016 @ 11:30 a.m.
Council Conference Room, 10th Floor, City Hall

Councilmember Carol Wood, Chair
Councilmember Patricia Spitzley
Councilmember Jody Washington

1. Call to Order
2. Roll Call
3. Public Comment
4. Approval of Minutes
 - June 10, 2016
5. Action/Discussion:
 - A. City Attorney Update on the Human Rights Ordinance Chapter 297 Amendments
6. Other
 - Updates on Participants in the Committee
7. Adjourn



MINUTES
AD HOC COMMITTEE ON DIVERSITY
Friday, July 8, 2016 @ 11:30 a.m.
Council Conference Room, 10th Floor, City Hall

Call to Order

The meeting was called to order at 11:32 a.m.

Committee Members

Councilmember Carol Wood, Chair
Councilmember Patricia Spitzley
Councilmember Jody Washington

Others Present

Sherrie Boak, Council Staff
Judi Harris, St. Vincent
Stacey Locke, Peckham
Mark Dotson, Deputy City Attorney
Steve Purchase
Rafael Marivez, MSU & Sparrow
Tammy Lemmer, TCOA
Elaine Womboldt

Minutes

MOTION BY COUNCIL MEMBER WASHINGTON TO APPROVE THE MINUTES FROM JUNE 10, 2016 AS PRESENTED. MOTION CARRIED 3-0.

Council Member Wood introduced Judi Harris who then provided a wrap-up from Refugee Week. Ms. Harris outlined all the events which included a 5k Walk, graduation event, movies, off site events and the Peace Pole presentation on the last day at City Hall. Council Member Wood asked if there were any updates on news of children being taken out of holding areas. Ms. Harris had no information.

Council Member Wood informed the Committee she will be inviting a member of the Islamic Center from East Lansing to the next meeting, July 22, 2016 for updates and presentation. They were encouraged to provide feedback to Council Staff on suggestions for contacts to invite.

Council Member Washington gave an update on the HIV testing day. Their goal was to test 100 people that day, and even though they did not meet that they were close. This event also included a discussion and panel and was successful.

Action/Discussion

City Attorney Update on the Human Rights Ordinance Chapter 297 Amendments

The Committee reviewed the presented Draft #5 and Mr. Dotson noted the only change was from the last meeting on the "Bullying" Definition. The discussion led to the determination on why "verbal" was included in the definition. The Committee determined to remove "verbal" from the "Bullying" definition on page 2, line 15. Council Member Spitzley suggested considering removal of "and" between "willful" and "aggressive". Mr. Dotson considered the suggestion, and agreed it can be removed to now state "Bullying: Repeated, persistent, willful, aggressive behavior directed...". The Committee reviewed the new wording and considering adding "and/or" between "willful" and "aggressive". Council Member Wood suggested adding "Any" at the beginning. Mr. Marivez suggested "Any one or more of the following..." Council Member Washington agreed to either format, but thought "and" would be an issue. Council Member Wood noted that sometimes in court the intent is not noted. The final determination was for "Bullying: Repeated, persistent, willful, aggressive behavior....." Mr. Dotson confirmed that the next step is the process is finalizing the process.

MOTION BY COUNCIL MEMBER SPTIZLEY TO MAKE REVISED CHANGE TO DRAFT #5 OF THE BULLYING DEFINITION TO "Bullying: Repeated, persistent, willful, aggressive behavior....." AND NO PRESENT AT DRAFT #6. MOTION CARRIED 3-0.

Council Member Wood took the discussion to the enforcement, and the first step being the submittal of complaints to the HRCS Department which is outlined on page 19, line 7, 297.10 Complaints. Council Member Spitzley asked if the management of the complaint had been resolved with HRCS. Council Member Wood noted her understanding that they (HRCS) can do the initial complaint but cannot address or handle the hearing or staff a hearing officer. In addition the City Attorney offices stated if they are representing the filer or something in the City, they cannot do dual purposes. Mr. Dotson confirmed this information and added that HRCS has agreed to confirm and determine that there is a complaint, then move it forward out of their office to the hearing office. Mr. Dotson noted that ideally the City would have someone separate from the City to make the determination if a violation has occurred. Council Member Wood pointed out that the City Attorney office does have funds in their budget to look at claims, arbitration, and therefore asked if they can law recommend that Law have a mediation group. Council Member Spitzley added that under the umbrella of City Attorney they represent Committee and City Department, and it could be a challenge for the City Attorney to represent City Departments. Mr. Dotson noted that it would be the perception arrived at if the City Attorney office made first determination if it was a violation, then also prosecution, there is an inability to come to an agreement, and the City could be acting as "judge" and "jury". Council Member Wood then asked if Mr. Dotson could recommend an organization that can handle and understands law in case it goes to litigation and Mr. Dotson agreed to research. Council Member Washington asked if HRCS has committed the time to investigate the complaints. Mr. Dotson stated the envisioned was that there would be an initial screening to determine if there are enough facts to move forward, and HRCS has agreed to that. The next step would be the hearing and that group or person would be doing the investigation. Council Member Spitzley pointed out that the current ordinance says HRCS is doing all the investigation, and doing the hearing. Therefore Section 297 needs to be reviewed again and re-written. Another concern is will the City get to a point where there will be no funds to hire the outside group. Council Member Wood noted to the group that currently the City has an ordinance on the books and is

not utilized that way. Council Member Washington noted her concern that HRCS is saying they have no staff or money, and the current ordinance says HRCS is the one required to do the investigation and finding a mediator. This section needs to be addressed and corrected. Ms. Lemmer asked if the rules and guidelines noted in line 8-9 on page 20 existed, and Council Member Wood confirmed it was noted. Council Member Spitzley briefly noted for the record her frustration that the Ordinance has been in effect since 2006, not Council is just being told that HRCS does not have the resources and have not been doing what they are required to do under the ordinance. Council Member Wood reminded the group that the Committee has gone line by line thru the Ordinance and have heard from HRCS of things that cannot be done. Council needs to make sure the ordinance can be enforced. Council Member Washington agreed that the ordinance needs to be cleaned up but with a strong focus on Section 297. One option is that HRCS could ask for more funds in the next budget to address this duty. Council Member Wood asked Mr. Dotson about the role of the citizen investigator housed in the HRCS Department and if that position can be utilized for this role. Mr. Dotson was asked to research the ordinance as it relates the Citizen Investigator Ordinance and if it can be determined that they do not have to spend all their time on that topic, but can also discuss moving it to HRCS to utilize that person for this subject. Mr. Dotson agreed to review the ordinance and will provide it before the next meeting, and Council Staff was asked to reach out to Dr. Jackson Johnson to attend the next meeting.

Council Member Washington noted that the ordinance is also to protect the accused and therefore protects everyone.

Updates

Council Member Wood referenced handouts, one from Community Mental Health, a flyer from United We Stand working with the LGBT, and Ms. Lemmer handed out flyers from TCOA on search for volunteers for a project on food security and food systems. Ms. Locke updated the group on Peckham's self-advocacy group. Ms. Harris provided an update on refugee numbers and the surge in immigrants.

Council Member Wood informed the Committee of an upcoming meeting at 3200 S. Washington that the LHC, MSHDA and HUD will be hosting at 6:00 p.m. on July 19, 2016.

Adjourn

Adjourn at 12:47 p.m.

Submitted by, Sherrie Boak, Council Office Manager

Approved by Committee on July 22, 2016

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MINUTES/NOTES
AD HOC COMMITTEE ON DIVERSITY
Friday, June 10, 2016 @ 11:30 a.m.
Council Conference Room, 10th Floor, City Hall

Call to Order

The meeting was called to order at 11:30 a.m.

Committee Members

Councilmember Carol Wood, Chair
Councilmember Patricia Spitzley
Councilmember Jody Washington

Others Present

Sherrie Boak, Council Staff
Jim Bale
Judi Harris, St. Vincent's Catholic Charities
Griffin Rivers
Guillermo Lopez
Ken Lane
Mark Dotson, Deputy City Attorney
Todd Heywood
Dr. Joan Jackson Johnson, HRCS
Stacey Locke, Peckham
Sandy Wolfe, Peckham
Tammy Lemmer, TCOA

Minutes

MOTION BY COUNCIL MEMBER WASHINGTON TO APPROVE THE MINUTES FROM MAY 27, 2016 AS PRESENTED. MOTION CARRIED 3-0.

PRESENTATION – A 21st Century Epidemic: Understanding the Science behind HIV Treatment and Prevention in 2016

Mr. Heywood distributed a handout PowerPoint. The handout addressed statistics, racial disparity, population effected and immigrants arriving in the US. The Federal Government did change evaluations in 1998 for refugees. Mr. Heywood made note that the Lansing area is the second highest in Michigan outside of Detroit with HIV. The presentation went into high risk areas and how the infection is caused by the virus. Treatments were discussed including the cost, the problems with obtaining medicine and giving examples of this to the Committee. In 1990 Federal Government passed an ACT for AIDS Drug Assistance program based on

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income. The handout included graphs on progression of infection, life expectancy, viral load (less than 28 viral particles per mml of blood) and engagement of HIV care. Information is provided when they are diagnosed they are linked to care, however if you are not living with HIV people don't know there is this care offered.

The presentation concluded with prevention options.

Council Member Spitzley stepped away from the meeting at 12:33 p.m.

The question was asked what process and assistance was being offered in the prison systems. Council Member Washington stated she would look into the educational piece.

Council Member Spitzley returned to the meeting at 12:35 p.m.

Updates

Dr. Joan Jackson Johnson handed out flyers on the "Gap Feeding Program", and also info on the Mobile Food Pantry.

Ms. Harris distributed the flyer on World Refugee Awareness Week. Council Member Wood added there will be the presentation of the Peace Pole in the City Hall Lobby at noon on June 24th, which will be the next Ad Hoc meeting.

Mr. Heywood noted there will be HIV Testing on June 11, 2016 at Riverwalk Theatre, and June 25th 4pm – midnight free testing in Old Town.

Action/Discussion

City Attorney Update on the Human Rights Ordinance Chapter 297 Amendments

Mr. Dotson stated the only changes are based on the discussion at the last meeting. This will be brought back at the July 8th, 2016 meeting.

Adjourn

Adjourn at 12:41 p.m.

Submitted by, Sherrie Boak, Council Office Manager

Approved by Committee on _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LANSING, MICHIGAN, TO AMEND
AND RENAME SECTION 297 OF THE LANSING CODIFIED
ORDINANCES.

THE CITY OF LANSING ORDAINS:

Section 1. That Section 297 of the Codified Ordinances of the City of Lansing,
Michigan, be and is hereby amended to read as follows:

CHAPTER 297. HUMAN RIGHTS

Editor's note – Ordinance No. 1120, § 1, adopted December 18, 2006, added a new chapter 297
to read as herein set out. Formerly, such chapter pertained to human relations and was repealed
by Ord. No. 957, 11-25-96.

297.01. – Intent.

It is the intent of the City of Lansing that no person be denied the equal protection of the laws;
nor shall any person be denied the enjoyment of their 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, gender identity,
veteran status or HIV status, as all forms of discrimination adversely affect Lansing citizens
and the quality of life and opportunities available to all people.

1 Nothing herein contained shall be construed to prohibit any cause of action based on any other
2 Lansing, Federal or State law.
3 (Ord. No. 1120 § 1, 12-18-06)

4
5 297.02. - Definitions.

6 As used in this Chapter, the following words and phrases have the following meanings:

7
8 Age: Chronological age as measured from date of birth.

9
10 Ancestry: The nationality, ethnicity, or family lineage from which a person is a descendent.

11
12 Bona fide occupational qualifications: Characteristics that are reasonably necessary for the
13 proper performance or evaluation of an occupation or the normal operation of a business.

14
15 BULLYING: REPEATED, PERSISTENT, WILLFUL AND AGGRESSIVE VERBAL
16 BEHAVIOR DIRECTED AT ANOTHER PERSON THAT IS INTENDED TO CAUSE
17 HARM TO THE OTHER PERSON'S BODY, EMOTIONS, SELF-ESTEEM OR
18 REPUTATION.

19
20 Contractor: A person who by contract furnishes services, materials or supplies. "Contractor"
21 does not include a person who is merely a creditor or debtor of the City, such as those holding

1 the City's notes or bonds or persons whose notes, bonds or stock are held by the City.

2

3 Discriminate/discrimination: To make a decision, offer to make a decision or refrain from
4 making a decision in whole or in part on the actual or perceived race, color, religion, national
5 origin, sex, age, height, marital status, physical or mental disability, family status, sexual
6 orientation gender identity, or HIV status . Discrimination based on sex includes sexually
7 harassment, which mean unwelcome sexual advances, requests for sexual favors, and other
8 verbal or physical conduct or communication of a sexual nature .when:

9 (i) Submission to such conduct or communication is made a term or condition or condition
10 either explicitly or implicitly to obtain employment, public accommodation or housing.

11 (ii) Submission to or rejection of such conduct or communication by an individual is used as a
12 factor in decisions affecting such individual's employment, public accommodations or
13 housing.

14 (iii) Such conduct or communication has the purpose or effect of substantially interfering with
15 an individual's employment accommodations or housing, or creating an intimidation,
16 hostile, or offensive employment, public accommodations, or housing environment.

17

18 Employee: A person, paid or unpaid, performing work duties for an employer, including an
19 applicant for paid or volunteer employment, or a participant in a training or apprenticeship
20 program.

21

1 Employer: Any person with a business located within or doing business within the corporate
2 City limits of Lansing or doing Business with the City of Lansing who employs or is seeking to
3 employ five or more employees, including any agent of that person or entity.

4

5 Employment: The act of an employee performing work duties for an employer.

6

7 Employment agency: Any person, paid or unpaid, who regularly undertakes to procure, refer,
8 recruit, or place an employee with an employer, including any agent of that person.

9

10 Familial status: The state of being in a family or functional family.

11

12 Family: Any one of the following:

13 (1) An individual who is pregnant; or

14 (2) Two or more individuals related by blood within four degrees of consanguinity, marriage,
15 adoption, or in a foster care relationship.

16

17 Functional family: A group of individuals who do not meet the definition of “family,” living
18 together as a single housekeeping unit and intending to live together as a single housekeeping
19 unit for the indefinite future. “Functional family” does not include a fraternity, sorority, club,
20 hotel, or other group of persons whose association is temporary or commercial in nature.

21

1 Gender identity or expression: A person's gender-related self-perception, appearance, or
2 behavior, regardless of that person's BIOLOGICAL sex at birth.

3

4 Harass/harassment: Physical conduct or communication directed at another person
5 intentionally for the purpose or effect of creating an intimidating, hostile, or offensive
6 environment with regard to employment, places of public accommodation, public services, or
7 housing.

8

9 HOSTILE WORK ENVIRONMENT: THIS DEFINITION ADOPTS BY REFERENCE THE
10 DEFINITION OF THIS TERM UNDER MICHIGAN LAW AND INCLUDES THAT A
11 HOSTILE WORK ENVIRONMENT EXISTS WHEN THERE IS PERSISTENT AND
12 PERVASIVE DISCRIMINATORY CONDUCT OR BEHAVIOR IN THE PLACE OF WORK
13 THAT IS UNWELCOME AND OFFENSIVE TO AN EMPLOYEE OR GROUP OF
14 EMPLOYEES, OF A PROTECTED CLASS STATUS, THAT IS SEVERE ENOUGH TO
15 DISRUPT, BEYOND A REASONABLE DEGREE, THE WORK OF THE TARGETED
16 EMPLOYEE OR EMPLOYEES.

17 Housing status: The state of having or not having a fixed residence, including, but not limited
18 to, the state of owning or renting (with or without receiving public housing assistance) a place to
19 live. This includes a person's type of dwelling or shelter, including, but not limited to, single
20 family or multiple family homes, apartments, condominiums, rooming houses, housing
21 cooperatives, hotels, motels, public or subsidized housing units, retirement homes, nursing

1 homes, and temporary or long-term shelters.

2

3 Irrelevant characteristic/irrelevant characteristics: Any status or condition which is unrelated to
4 a person's ability to:

5 (1) Safely and competently perform specific duties of a particular job or profession, or qualify
6 for promotion,

7 (2) Use or benefit from a place of public accommodation,

8 (3) Use or benefit from public services, or

9 (4) Acquire, rent, or maintain property.

10

11 "Irrelevant characteristics" do not include bona fide occupational qualifications but do include a
12 person's actual or perceived race, religion, ancestry, national origin, color, sex, age, height,
13 weight, student status, marital status, familial status, housing status, veteran status, political
14 affiliation or belief sexual orientation, gender identity or expression, mental or physical
15 limitation, SOURCE OF INCOME, OR SERVICES IN ARMED FORCES IN
16 SOVERIGNNATIONS.

17

18 Labor organization: Any union, committee, association, or organized group of employees that
19 exists primarily for the purpose of dealing with employment concerns, grievances, wages, labor
20 disputes, rates of pay, hours of work, or other terms or conditions of employment.

21

1 Marital status: The state of being single, married, separated, divorced, in a functional family, or
2 a surviving spouse.

3

4 Mental limitation: Actual or perceived disability or handicap, as those terms are defined in the
5 Michigan Persons With Disabilities Civil Rights Act, or limitation regarding mental capabilities
6 unrelated to a person's ability to:

7 (1) Perform a particular job or profession or qualify for promotion,

8 (2) Use or benefit from a place of public accommodation,

9 (3) Use or benefit from public services, or

10 (4) Acquire, rent, or maintain property.

11

12 "Mental limitation" includes, but is not limited to, developmental disabilities, psychological
13 conditions, and the use by any person of adaptive devices, aids, or medication to mitigate such
14 limitations. "Mental limitation" does not include any condition caused by the current use of an
15 illegal or controlled substance or alcohol.

16

17 National origin: The country where a person or a person's ancestors were born. Discrimination
18 against a person based on national origin shall include discrimination against nonnaturalized
19 citizens and persons for whom English is a second language.

20

21 Perceived: As used in this chapter "perceived" refers to the perception of the person who acts,

1 and not to the perception of the person for or against whom the action is taken..

2

3 Person/persons: One or more individuals, partnerships, associations, or organizations; labor
4 organizations, labor unions, or joint apprenticeship committees; businesses, companies, or
5 corporations; legal representatives, receivers, trusts, or trustees; unincorporated organizations;
6 employers or employment agencies; employees or contractors; realtors, real estate brokers,
7 salespersons, or leasing agents; the City of Lansing, agencies of the city, and any recipient of city
8 funds or any other legal or commercial entity.

9

10 Physical limitation: Actual or perceived disability or handicap, as those terms are defined in
11 the Michigan Persons With Disabilities Civil Rights Act, or limitation regarding physical
12 capabilities and human motor performance unrelated to a person's ability to:

- 13 (1) Safely and competently perform specific duties of a particular job or profession or qualify
14 for promotion,
15 (2) Use or benefit from a place of public accommodation,
16 (3) Use or benefit from public services, or
17 (4) Acquire, rent, or maintain property.

18

19 "Physical limitation" includes, but is not limited to, blindness or partial sightedness, deafness or
20 hearing impairment, muteness, partial or total absence of any body part(s), speech impairment,
21 motor impairment, and the use by any person of adaptive devices or aids to mitigate such

1 limitations.

2

3 "Physical limitation" does not include any condition caused by the current use of an illegal or
4 controlled substance, or alcohol.

5

6 Place of public accommodation: A place open to the general public that is a facility or business
7 of any educational, governmental, nonprofit, health, day care, entertainment, cultural,
8 recreational, refreshment, transportation, or human services, financial, or other business of any
9 kind, whose goods, services, facilities, activities, privileges, or advantages are extended, offered,
10 sold, rented, leased, or otherwise made available to the public.

11

12 Public services: Goods, services, facilities, activities, privileges, or advantages extended,
13 offered, sold, rented, leased, or otherwise made available to the public through a department,
14 agency, board, or commission owned, operated, or managed by or on behalf of the state or a
15 political subdivision of the state or a nonprofit organization, including tax-exempt private
16 agencies, which receive financial support through the solicitation of the general public or through
17 governmental subsidy of any kind.

18

19 Real property: Any habitable or potentially habitable land or building, as used in this definition
20 "habitable building" includes, but is not limited to, single and multiple family homes,
21 apartments, condominiums, housing cooperatives, mobile homes or trailers, mobile home or

1 trailer parks, and tenements, including any lease or interest in real property.

2

3 Religion: All aspects of religious observance, dress, practice, and belief.

4

5 Sexual orientation: A PERSON'S SEXUAL IDENTITY IN RELATION TO THE GENDER
6 TO WHICH THEY ARE ATTRACTED; THE FACT OF BEING HETEROSEXUAL,
7 HOMOSEXUAL, BISEXUAL, OR ASEXUAL. Sex: The condition of being male, female, OR
8 INTERSEX. Discrimination based on sex includes sexual harassment, which means unwelcome
9 sexual advances, requests for sexual favors, and other verbal or physical conduct or
10 communication of a sexual nature when:

11 (1) Submission to such conduct or communication is made a term or condition either
12 explicitly or implicitly to obtain employment, public accommodation, or housing; or

13 (2) Submission to or rejection of such conduct or communication by a person is used as a
14 factor in decisions affecting such person's employment, public accommodation, or
15 housing; or

16 (3) Such conduct or communication has the purpose or effect of substantially interfering with
17 a person's employment, public accommodation, or housing, or creating an intimidating,
18 hostile, or offensive employment, public accommodation, or housing environment.

19

20 Student status: The current state of pursuing a diploma/degree at any educational institution.

21

1 Source of income: Any legal source from which a person obtains money.

2

3 Veteran Status: Having served in any unit of the United States Armed Forces or their reserve
4 components, including the National Guard and the Coast Guard.

5 (Ord. No. 1120, § 1, 12-18-06)

6

7 297.03. – Discriminatory employment practices.

8 (a) Except as otherwise provided, no employer shall discriminate against any other person with
9 regard to recruiting, referring, hiring, contracting, compensating, grading, classifying, promoting,
10 demoting, disciplining, terminating or otherwise restricting or conditioning terms and privileges
11 of employment.

12 (b) Except as otherwise provided, no labor organization or apprentice program shall
13 discriminate by limiting membership, conditions of membership, privileges of membership or
14 termination of membership of any person in any labor union or apprentice program.

15 (c) Except as otherwise provided, no person shall discharge, terminate, expel, or otherwise
16 discriminate against any other person because that person has opposed any discriminatory
17 practice forbidden by this chapter or has filed a complaint, testified, or assisted in any proceeding
18 regarding any discriminatory practice forbidden by this chapter.

19 (Ord. No. 1120, § 1, 12-18-06)

20

21 297.04. – Discriminatory Public Accommodation Practices.

1 (a) No person shall discriminate against any other person by withholding, denying, curtailing,
2 or otherwise limiting the full use and enjoyment of places of public accommodations.

3

4 (b) No person shall prohibit a breastfeeding mother from or segregate a breastfeeding mother
5 within any place of public accommodation where she and the child would otherwise be
6 authorized to be.

7 (Ord. No. 1120, § 1, 12-18-06)

8

9 297.05. – Discrimination in provision of public services.

10 (a) No person shall discriminate against any other person in providing information, offering
11 access, or making referrals regarding public services, or by withholding, denying, curtailing, or
12 otherwise limiting the full use of and benefit from public services.

13 (Ord. No. 1120, § 1, 12-18-06)

14

15 297.06. – Discriminatory housing practices.

16 (a) No person shall discriminate in referring, leasing, selling, renting, showing, advertising,
17 pricing, offering, inspecting, listing, or otherwise making available any real property, including
18 discrimination in providing information and receiving or communicating a bona fide offer on any
19 real property.

20

21 (b) No person shall discriminate in (a) the application, conditions, or granting of mortgages or

1 other financing, (b) the offer, conditions, or sale of home-owner or rental insurance, or (c) the
2 contracting of construction, rehabilitation, maintenance, repair, or other improvement of any
3 housing facility.

4
5 (c) No person shall refuse to lend money for the purchase or repair of any real property or insure
6 any real property solely because of the location in the city of such real property.

7
8 (d) No person shall promote any sale, rental, lease, sublease, Exchange, transfer, or assignment
9 of real property by representing that changes are occurring or will occur in an area with respect
10 to any irrelevant characteristics.

11
12 (e) No person shall indicate, communicate, or otherwise represent to another person that any real
13 property or interest therein is not available for inspection, sale, rental, or lease knowing in fact it
14 is available, including failing to make a person aware of a real property listing, refusing to permit
15 inspection of real property, and representing that a property has been sold when In fact it has not.

16
17 (f) No person shall offer, solicit, accept, use or retain a listing of real property or an interest
18 therein with the understanding that a person may be discriminated against in a real estate
19 transaction or in the furnishing of facilities or services in connection therewith.

20 (Ord. No. 1120, § 1, 12-18-06)

21

1 297.07. - Other prohibited practices.

2 (a) No person shall adopt, enforce, or employ any policy or publish, circulate, post, mail, or
3 otherwise broadcast any statement, advertisement, sign, or notice or use a form of application or
4 make a record of inquiry which directly or indirectly discriminates or indicates discrimination in
5 providing employment, public accommodations, public services, ~~or~~ housing, OR HEALTH
6 CARE.

7

8 (b) No person shall discriminate in the publication or distribution of advertising material,
9 information, or solicitation regarding employment, public accommodations, public services, ~~or~~
10 housing, OR HEALTH CARE.

11

12 (c) No person shall coerce, intimidate, threaten, harass, retaliate against, BULLY or interfere
13 with any person:

14 (1) In the exercise or enjoyment of, or on account of one's having exercised or enjoyed, or on
15 account of one's having aided or encouraged any person in the exercise or enjoyment of, any
16 right protected in this chapter; or

17 (2) Making a complaint or assisting in an investigation regarding a violation or alleged
18 violation of this chapter.

19

20 (d) No person shall require, request, conspire with, assist, BULLY or coerce another person to:

21 (1) Discriminate in any manner prohibited by this chapter; or

1 (2) Intimidate, threaten, harass, or retaliate against another person for making a complaint or
2 assisting in an investigation regarding an alleged violation of this chapter.

3
4 (e) No person shall provide false or misleading information to any authorized person
5 investigating a complaint regarding a violation or alleged violation of this chapter, or sign a
6 complaint for a violation of this chapter based upon false or substantially misleading
7 information.

8 (Ord. No. 1120, § 1, 12-18-06)

9
10 297.08. - Exceptions.

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

13 (a) Employment;

14 (1) This chapter does not apply to the employment of any person by his/her parent, spouse,
15 or child.

16 (2) It is permissible to discriminate in hiring and selecting between one person and another
17 based on bona fide occupational qualifications. Upon a claim of discrimination, the
18 Claimant shall have the burden of making a prima facie showing that a qualification or
19 selection resulted from a prohibited discriminatory act. An employer shall then have the
20 burden of establishing that a qualification or selection criterion is reasonably necessary
21 for the claimant to perform in the normal operation of the business. The Claimant will

1 then have the burden of showing that such qualification or criterion is mere pretext.

2 (1) It is permissible to give preferential treatment in hiring to veterans and their relatives as
3 required by federal or state law.

4 (2) It is permissible to engage in a bona fide effort to establish, maintain, or improve
5 employment opportunities for persons protected from discrimination and harassment
6 under this chapter.

7 (5) It is permissible to consider legal source of income as a bona fide occupational
8 qualification where the employment involves non-compete agreements, trade secrets, or
9 similar legally recognized restraints on employment based on source of income.

10 (b) Public accommodation and public services;

11 (1) It is permissible to restrict the use of shower or changing areas in health clubs or
12 recreational facilities on the basis of sex when separate and private shower or changing
13 areas do not exist.

14 (2) It is permissible to refuse to admit to a place of public accommodation serving alcoholic
15 beverages a person under the legal age for purchasing alcoholic beverages.

16 (3) It is permissible to refuse to admit persons under 18 years of age to a business providing
17 entertainment or selling literature or merchandise, which the operator of the business
18 deems unsuitable for minors, or which is a “sexually explicit matter” as defined by
19 Section 3 of Act 33 of the Public Acts of 1978, codified at MCL 722.673.

20 (4) It is permissible for an educational institution to limit the use of its facilities to those
21 affiliated with such institution.

1 (5) It is permissible to provide discounts on products or service to students, minors, and
2 senior citizens.

3 (6) it is permissible to restrict participation on athletic teams or in athletic events on the basis
4 of age.

5 (c) Housing;

6 (1) It is permissible to discriminate in any arrangement for the sharing of a single unit
7 dwelling, the remainder of which is occupied by the owner or a member of his/her
8 immediate family.

9 (2) It is permissible for the owner of a dwelling devoted entirely to the housing or
10 accommodation of a single sex to restrict occupancy and use on the basis of sex.

11 (3) This chapter does not require any person who does not participate in the Federal Section 8
12 Housing Assistance Program to accept any subsidy, payment assistance, voucher or
13 contribution in connection with such program, or to lease or rent to any tenant or
14 prospective tenant who is relying on such a subsidy as payment for at least part of the rent.

15 (Ord. No. 1120, § 1, 12-18-06)

16

17 297.09. - Other exceptions as required by law.

18 This chapter shall not be construed to limit rights granted by State or Federal Constitution, law,
19 rule or regulation, including but not limited to, the following:

20

21 (a) It is permissible to discriminate in employment, public accommodation, public services,

1 housing, AND HEALTH CARE based on a person's age, income level, or mental or physical
2 limitations when such discrimination is required or allowed by Federal, State or Local
3 constitution, law, rule or regulation.

4

5 (b) It is permissible for a governmental institution to restrict access to any of its facilities or to
6 restrict employment opportunities based on duly adopted institutional policies that conform to
7 Federal, State or local constitution, law, rule or regulation.

8 (c) This chapter shall not be read to prohibit or interfere with the exercise of a person's first
9 amendment rights.

10 (d) It is permissible for a religious organization or institution to restrict employment
11 opportunities, housing facilities, or accommodations that are operated as a direct part of religious
12 activities to persons who are members of or who conform to the moral tenets of that religious
13 institution or organization.

14 (e) It is permissible to limit occupancy in a housing development or to provide public
15 accommodations or employment privileges or assistance to persons of low income, over 55 years
16 of age, or who have a physical or mental limitation.

17 (f) It is permissible to discriminate based on a person's age when State, Federal, or local law
18 requires it.

19 (g) It is permissible to refuse to enter into a contract with an emancipated minor.

20 (h) Nothing in this chapter shall affect, replace, or diminish the duties, obligations, rights, or
21 remedies as otherwise provided by any union contract, collective bargaining agreement, or

1 federal, state or local constitution, law, rule or regulation, which shall control over this chapter.

2 (i) This chapter shall not be read to require an employer, whether public or private, to provide
3 benefits to UNMARRIED domestic partners in contravention of Article I, Section 25 the
4 Michigan Constitution.

5 (Ord. No. 1120, § 1, 12-18-06)

6

7 297.10. - Complaints.

8 (a) Any person claiming to be discriminated against or harassed in violation of this ordinance
9 may file with the department of Human Rights Community Services (the “Department”) a
10 complaint, in writing, setting forth with reasonable specificity the person or persons alleged to
11 have violated this chapter, the specific nature of the violation and the date(s) of the alleged
12 violation. A person filing a complaint must do so within 180 days of the incident forming the
13 basis of the complaint.

14

15 (b) To the extent permitted by law, all written complaints of discrimination in employment,
16 public accommodation, public services, and housing received by the department shall be kept
17 confidential.

18

19 (c) Upon receipt of the complaint the department shall:

20

21 (1) Be responsible for receipt, recordation, investigation, mediation, conciliation,

1 recommendation, and/or referral to the Office of the City Attorney;

2 (2) CONTACT THE CLAIMANT TO DISCUSS THEIR CONCERNS AND SCHEDULE
3 AN INFORMAL CONFERENCE (ESTIMATED TIME WITHIN 45 DAYS);

4 (3) ~~(2)~~ Ensure there are no undue burdens placed on a Claimant, which might discourage
5 filing of a discrimination complaint;

6 (4) ~~(3)~~ Commence and complete the complaint investigation, mediation/conciliation, and
7 recommendation process in a timely manner; AND

8 ~~(4)~~ Promulgate and publish rules and guidelines for processing, investigating,
9 mediating/conciliating, and recommending resolution of the complaint. (Ord. No. 1120, § 1, 12-
10 18-06)

11
12 297.11. - Investigation and hearing.

13 (a) During an investigation, the department may request the appearance of witnesses and the
14 production of books, papers, records or other documents that may be relevant to a violation or
15 alleged violation of this chapter.

16
17 (b) If the department determines that the complaint and preliminary evidence gathered indicates
18 a prima facie violation of an ordinance in this chapter, the department shall assign a person to
19 conduct a hearing (hereinafter referred to as the “Hearing Officer”) within 90 days after
20 completion of its preliminary investigation. The person who is alleged to have committed a
21 violation (the “Respondent”) and the claimant shall be sent by regular mail at least 14 days

1 advance, notice of the scheduled date and time of the hearing and a request for each to appear. At
2 the hearing, testimony will be taken. All testimony shall be on the record, under oath and either
3 recorded or transcribed. Both Claimant and Respondent shall be allowed to testify, present
4 evidence, bring witnesses to testify, and to cross examine all witnesses at the hearing. Technical
5 rules of evidence shall not apply.

6
7 (c) A failure of either the Claimant or the Respondent to cooperate with the department may
8 result in an adverse determination for that person at the hearing.

9 (Ord. No. 1120, § 1, 12-18-06)

10

11 297.12. Findings and recommendations.

12 The Hearing Officer shall make findings of fact based on the testimony and evidence introduced
13 at the hearing and shall recommend such relief as the hearing officer deems appropriate. The
14 Claimant and Respondent shall have the right to appeal the Hearing Officer's findings and
15 recommendations in writing within 30 days to the Director of the department. On appeal, the
16 hearing record and Hearing Officer's findings and recommendations shall be reviewed by the
17 Director of the department, who shall approve, approve with modification, or disapprove of the
18 findings and recommendations. After the Director's review, the department's findings and
19 recommendations shall be served by regular mail on the Claimant and Respondent. The parties
20 shall have 30 days to comply with such findings and recommendations, unless a different time to
21 comply is provided by the department.

1 (Ord. No. 1120, § 1, 12-18-06)

2

3 297.13. Available recommendations and remedies.

4 If a violation of this Chapter is found the Hearing officer may recommend that remedial action
5 be taken. The recommended remedies may include, but are not limited to one or more of the
6 following:

7

8 (a) Ceasing the illegal conduct cited in the complaint and taking steps to alleviate the effect of
9 such illegal conduct;

10 (b) The respondent apologize to the Claimant;

11 (c) Closure of the matter based upon a mediation/ conciliation agreement of the Claimant and
12 Respondent;

13 (d) The respondent pay damages for injury or loss;

14 (e) Hiring, reinstating, or promoting the Claimant, with or without back pay, or providing such
15 fringe benefits as the Claimant may have been denied;

16 (f) Selling or leasing of housing or dwelling unit in question to the Claimant;

17 (g) Admitting the claimant to a place of public accommodation or extending full and equal use
18 and enjoyment of said place of public accommodation;

19 (h) Paying some or all of the claimant's costs, costs incurred at any stage of review;

20 (i) Posting the explanation of and requirements for compliance with this chapter;

21 (j) Dismissing the complaint; and

1 (k) Imposing costs against a Claimant for a frivolously filed claim.

2

3 The Hearing officer shall attempt to resolve the matter by party conciliation and if unable to do
4 so, by referring it to the City attorney for prosecution.

5 (Ord. No. 1120, § 1, 12-18-06)

6

7 297.14 Conciliation Agreements.

8 In cases involving alleged violations of this chapter, the Hearing officer may have the parties
9 enter into agreements whereby the involved parties agree to take steps that will terminate
10 continued discriminatory practices and/or compensate for past and future injury. Violations of
11 such agreements shall be violations of this chapter.

12

13 (Ord. No. 1120, § 1, 12-18-06)

14

15 297.15. - Civil infraction.

16 (a) A violation of any provision of this chapter is a civil infraction and shall be prosecuted by the
17 City attorney. Each day upon which a violation occurs shall constitute a separate and new
18 violation.

19

20 (b) If the Hearing Officer determines that a violation of this chapter has occurred and the
21 Respondent does not comply with the Hearing Officer's recommendation within the specified

1 time period, either the Complainant or the Hearing Officer may refer the matter to the City
2 Attorney, County Prosecutor, the Michigan Department of Civil Rights, the United States
3 Department of Justice, Department of Housing and Urban Development, or other appropriate
4 enforcing agency.

5

6 (c) The City Attorney may commence legal action by filing and serving a complaint to obtain
7 injunctive relief or any other remedy in an effort to prevent further conduct prohibited by this
8 chapter and to remedy the effects of such conduct.

9

10 (d) A violation of a prohibited act in this chapter is designated a municipal civil infraction, is not
11 a crime, and shall not be punishable by imprisonment.

12

13 (e) Schedule of civil fines. The violation shall be according to the following schedule:

14 (1) First violation \$ 150.00

15 (2) Second violation \$ 250.00

16 (3) Third (or any subsequent) violation \$ 500.00

17

18 (f) Continuing violation.

19 (1) For an offense that is a single and discrete occurrence, a single violation shall accrue
20 (for example, a single act of harassment like a racial epithet). Subsequent single and
21 discrete occurrences shall result in additional violations according to the above

1 schedule (for example, two separate instances of racial epithets would constitute a
2 first and second violation).

3 (2) For offenses that are continuing in nature, rather than single and discrete, the first
4 violation shall accrue with the first day of the occurrence, and subsequent violations
5 shall accrue for each additional day of that occurrence (for example, an impermissible
6 hiring practice that continues each day on an ongoing basis).

7 (3) For continuing violations under subsection (f)(2), the day of the first occurrence shall
8 be measured from the day of service of the City Attorney's complaint.

9 (Ord. No. 1120, § 1, 12-18-06)

10

11 297.16. - Private actions.

12 Any person who is the victim of discrimination in violation of this chapter retains his or her right
13 to pursue any and all other legal action to which the person may be entitled in addition to the
14 remedies available under this chapter. Nothing in this chapter shall be construed to limit rights
15 granted under the laws of the State of Michigan or the United States.

16 (Ord. No. 1120, § 1, 12-18-06)

17

18 Section 2. All ordinances, resolutions or rules, parts of ordinances, resolutions or rules
19 inconsistent with the provisions hereof are hereby repealed.

1 Section 3. Should any section, clause or phrase of this ordinance be declared to be
2 invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof
3 other than the part so declared to be invalid.

4 Section 4. This ordinance shall take effect on the 30th day after enactment, unless given
5 immediate effect by City Council.

6 Approved as to form:

7
8
9
10 _____ City Attorney
11 Dated: _____
12
13
14