

Submitted by: Chair of the Assembly at the
Request of the Acting Mayor
Reviewed by: Assembly Counsel
For reading: May 12, 2009

**ANCHORAGE, ALASKA
AO NO. 2009-64**

**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.

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.

(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, 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.

Discrimination means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal or denial or any other act or

practice of differentiation or preference in the treatment of a person because of race, color, religion, national origin, age, sex, sexual orientation, marital status, veteran's status, or physical or mental disability, or the aiding, abetting, inciting, coercing or compelling thereof.

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

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

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

Section 3. Anchorage Municipal Code 5.20.020 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*):

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

- A. It is unlawful for the owner, lessor, manager, agent, brokerage service, or other person having the right to sell, lease, rent, advertise, or an owner's association having the powers of governance and operation of real property to:
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 4. Anchorage Municipal Code 5.20.030 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*):

5.20.030 Unlawful financing practices.

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

1. Discriminate against the applicant 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 obtainment or use of the institution's financial assistance, insurance or credit.
2. Make or cause to be made 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 the institution's financial assistance, insurance or credit unless the inquiry is for the purpose of ascertaining the applicant's creditworthiness or insurability.
3. Refuse to extend credit, issue a credit card, insure or make a loan to a single, divorced, pregnant or married person who is otherwise creditworthy, if so requested by the person or to refuse to extend credit, issue a credit card, insure or make a loan to a creditworthy person based on that person's sexual orientation.

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

Section 5. Anchorage Municipal Code Chapter 5.20.040 is hereby amended to read as follows (*other language is unaffected and therefore not set 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, religion, national origin, marital status, age, veteran's status, 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, religion, national origin, marital status, age, veteran's status, 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, religion, national origin, marital status, age, veteran's status, 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 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, sexual orientation, religion, national origin, marital status, age, veteran's status, or physical or mental disability.
2. Publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that:
 - 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. It 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.
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, religion, national origin, marital status, age, veteran's status, 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, religion, national origin, marital status, age, veteran's status, 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, religion, national origin, marital status, age, veteran's status, 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 Chapter 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, religion, national origin, marital status, age, veteran's status, or physical or mental disability.
2. Publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any local, state or federal funds, services, goods, facilities, advantages or privileges of the office or agency 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 that the patronage 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 or not solicited.

(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.

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, sexual orientation, religion, national origin, marital status, age, veteran's status, or physical or mental disability, 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.

(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.

1 It shall be lawful for a bona fide religious or denominational institution, organization,
2 corporation, association, educational institution, or society, to limit, select or give
3 preferential treatment in employment, admissions, accommodations, advantages,
4 facilities, benefits, or services, to persons of the same religion or denomination, that
5 is reasonably calculated to promote the religious principles for which it is established
6 or maintained. Such organizations otherwise remain subject to the other provisions in
7 this title with regard to race, color, sex, sexual orientation, religion, national origin,
8 marital status, age, veteran's status, or 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.

18
19
20 _____
21 Chair

22 ATTEST:

23
24 _____
25 Municipal Clerk
26

Submitted by: Chair of the Assembly at the
Request of the Acting Mayor
Prepared by: Office of the Mayor
For reading: June 9, 2009

ANCHORAGE, ALASKA
AO No. 2009-64 (S)

**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 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, 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 the Constitutional rights of freedom of expression, freedom of association, and 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 (*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.

*** *** ***

Discrimination means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal or denial or any other act or practice of differentiation or preference in the treatment of a person because of race, color, religion, national origin, age, sex, sexual orientation, marital status, [veteran's status,] or physical or mental disability, or the aiding, abetting, inciting, coercing or compelling thereof.

*** *** ***

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

*** *** ***

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

*** *** ***

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

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

Section 3. Anchorage Municipal Code section 5.20.020 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*):

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

A. **With the exception of the practices identified in section 5.25.030 A., as "lawful practices,"** i [i]t is unlawful for the owner, lessor, manager, agent, brokerage service, or other person having the right to sell, lease, rent, advertise, or an owner's association having the powers of governance and operation of real property to:

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 4. Anchorage Municipal Code section 5.20.030 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*):

5.20.030 Unlawful financing practices.

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

1. Discriminate against the applicant 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 obtainment or use of the institution's financial assistance, insurance or credit.
2. Make or cause to be made 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 the institution's financial assistance, insurance or credit unless the inquiry is for the purpose of ascertaining the applicant's creditworthiness or insurability.
3. Refuse to extend credit, issue a credit card, insure or make a loan to a single, divorced, pregnant or married person who is otherwise creditworthy, if so requested by the person or to refuse to extend credit, issue a credit card, insure or make a loan to a creditworthy person based on that person's sexual orientation.

*** *** ***

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

Section 5. Anchorage Municipal Code section 5.20.040 is hereby amended to read as follows (*other language is unaffected and therefore not set 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, religion, national origin, marital status, age, [veteran's status], or physical or mental disability, unless the reason for the discrimination is a bona fide occupational qualification.

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

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, religion, national origin, marital status, age, [veteran's status], 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, religion, national origin, marital status, age, [veteran's status], 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, sexual orientation, religion, national origin, marital status, age, [veteran's status] or physical or mental disability.
2. Publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that:
 - 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 section 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. It 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.
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, religion, national origin, marital status, age, [veteran's status], 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, religion, national origin, marital status, age, [veteran's status], 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, religion, national origin, marital status, age, [veteran's status], 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, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability.

2. Publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any local, state or federal funds, services, goods, facilities, advantages or privileges of the office or agency 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 that the patronage 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 or not solicited.

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

(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 section 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, sexual orientation, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability, 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. The prohibition of discrimination based on sexual orientation imposed by this chapter does not apply to discrimination because of one's biological gender in matters such as access to restrooms, nor does it change the rights of employers and operators of public accommodations to impose reasonable dress codes, work rules or other rules of general application.

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

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

5.20.090 Religious exemptions.

It shall be lawful for a bona fide religious or denominational institution, organization, corporation, association, educational institution, or society, to limit, select or give preferential treatment in employment, admissions, accommodations, advantages, facilities, benefits, or services, to persons of the same religion or denomination, that is reasonably calculated to promote the religious principles for which it is established or maintained. **[SUCH ORGANIZATIONS OTHERWISE REMAIN SUBJECT TO THE OTHER PROVISIONS IN THIS TITLE WITH REGARD TO RACE, COLOR, SEX, SEXUAL ORIENTATION, RELIGION, NATIONAL ORIGIN, MARITAL STATUS, AGE, VETERAN'S STATUS, OR PHYSICAL OR MENTAL DISABILITY.]**

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

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

PASSED AND APPROVED by the Anchorage Assembly this ____ day of _____, 2009.

Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. 342-2009

Meeting Date: June 9, 2009

From: ACTING MAYOR

Subject: AO 2009-64S

An ordinance of the Anchorage Municipal Assembly Amending Anchorage Code Chapters 5.10 Equal Rights Commission and 5.20 Unlawful Discriminatory Practices

Nondiscrimination laws ensure that people have equal access to employment, housing, and other opportunities, free from unfair discrimination based on personal characteristics that should not matter. Current Municipal Code provisions protect people from discrimination – in employment, education, housing, public accommodations, financial practices and practices of the Municipality -- on the basis of religion, race, sex, nationality, age, marital status, and physical and mental disability.

This ordinance adds “sexual orientation” to the list of personal characteristics protected from discrimination. The reason for this change is that a person’s sexual orientation or gender identity has nothing to do with job performance or qualifications as a good tenant or customer.

More than 100 communities and a dozen states across the country have laws in place prohibiting discrimination on the basis of sexual orientation and gender identity. The State of Alaska has included “sexual orientation” in its anti-discrimination policy applicable to all executive branch agencies since 2002. Federal government agencies and major corporations also prohibit this form of discrimination.

In response to public discussions about the original version of this ordinance (AO 2009-64, introduced May 12, 2009), a substitute version (A) 2009-64(S) was drafted. It modifies the original proposal in the following ways:

1. The characteristic of “veteran status,” proposed to be added by this ordinance has been deleted at the recommendation of the MOA’s Military and Veteran Affairs (MVA) Commission. The MVA Commission recognizes the importance of preventing discrimination against military personnel and veterans and their families, but was apprehensive about the implications of the proposed amendment for current military discount offers and privileges. The MVA Commission has requested a joint meeting with the Equal Rights Commission to explore the issue.

2. The second sentence in the “religious exemption” section (AMC 5.20.090.A) was deleted to eliminate redundancy and possible confusion. This section of the Code states that a religious organization as defined in 5.020.090 may give preferential treatment to persons of the same religion if such preference is for the purpose of promoting religious principles. Some felt that the second sentence might be interpreted as limiting in some way the breadth

1 and generality of the exemptions stated in the first sentence. (The deleted sentence is: "Such
2 organizations otherwise remain subject to the other provisions in this title with regard to race,
3 color, sex, sexual orientation, religious, national origin, marital status, age, veteran's status,
4 or physical or mental disability.")

5
6 3. Language was added to clarify that the addition of "sexual orientation" to the Code
7 does not change the rights of employers and operators of public accommodations to impose
8 reasonable dress codes and other work rules, or to restrict access to gender-specific restrooms
9 to those of the same biological gender. This clarification was made in response to concerns
10 about cross-dressing in the workplace or men dressed as women using women's restrooms. It
11 does not limit employers and operators of public accommodations from reasonably
12 addressing restroom use in light of all circumstances.

13
14 4. A provision has been added to make it clear that exemptions in Ch. 25 apply to Ch.
15 20. These are the exemptions under the Fair Housing Act, applicable to certain residential
16 situation such as owner-occupied buildings with up to four separate living units. This is
17 consistent with current interpretation by the Anchorage Equal Rights Commission.

18
19 5. A provision has been added to make it clear that the anti-discrimination provisions
20 of AMC 5.20 apply to the MOA's procurement activities under AMC Title 7, again reflecting
21 current practice.

22
23 6. Language has been added to give express recognition to the fact that nothing in this
24 law impacts the constitutional rights of freedom of speech, freedom of association, and free
25 exercise of religion. Although these rights exist regardless of whether the Code
26 acknowledges their existence, it seemed prudent to include reference to them because they
27 may limit the applicability of anti-discrimination laws.

28
29
30 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AO 2009-64S**
31 **An ordinance of the Anchorage Municipal Assembly Amending Anchorage Code**
32 **Chapters 5.10 Equal Rights Commission and 5.20 Unlawful Discriminatory Practices**
33

34 Prepared by: Marge Larson
35 Approved by: Patty Ginsburg
36 Concur: James N. Reeves, Municipal Attorney
37 Concur: Michael K. Abbott, Municipal Manager
38 Respectfully submitted: Matt Claman, Acting Mayor
39

Submitted by: ASSEMBLY CHAIR OSSIANDER

Prepared by: Assembly Counsel

Reading Date: June 16, 2009

AO 2009-64 INITIAL READING: May 12, 2009

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.

(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.

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

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

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

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

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

Section 4 [3]. Anchorage Municipal Code 5.20.020 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*):

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

A. With the exception of the practices identified in AMC 5.25.030.A as "lawful practices," it is unlawful for the owner, lessor, manager, agent, brokerage service, or other person having the right to sell, lease, rent, advertise, or an owner's association having the powers of governance and operation of real property to:

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

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

5.20.030 Unlawful financing practices.

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

1. Discriminate against the applicant 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 obtainment or use of the institution's financial assistance, insurance or credit.
2. Make or cause to be made 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 the institution's financial assistance, insurance or credit unless the inquiry is for the purpose of ascertaining the applicant's creditworthiness or insurability.
3. Refuse to extend credit, issue a credit card, insure or make a loan to a single, divorced, pregnant or married person who is otherwise creditworthy, if so requested by the person or to refuse to extend credit, issue a credit card, insure or make a loan to a creditworthy person based on that person's sexual orientation.

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

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

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~~

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.

23 ***

24 ***

25 ***

26 {CAC 8.40.040; AO No. 92-116(S); AO No. 93-99; AO No. 93-77; AO No. 93-149, §
27 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03}

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

29
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.**
43

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

- 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**[[**]**It 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.

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, religion, national origin, marital status, age, veteran's status, 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, religion, national origin, marital status, age, veteran's status, 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, religion, national origin, marital status, age, veteran's status, 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 Chapter 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, employment, advantages or privileges because of race, color, sex, sexual orientation, religion, national origin, marital status, age, veteran's status, or physical or mental disability.
2. Publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any local, state or federal funds, services, goods, facilities, advantages or privileges of the office or agency 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 that the patronage 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 or not solicited.

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

(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, sexual orientation, religion, national origin, marital status, age, ~~veteran's status~~, or physical or mental disability, 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 maintain and enforce gender-segregated restrooms.** ~~The prohibition of discrimination based on sexual orientation imposed by this chapter does not apply to discrimination because of one's biological gender in matters such as access to restrooms, nor does it change the rights of employers and operators of public accommodations to impose~~

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

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

(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.

It shall be lawful for a bona fide religious or denominational institution, organization, 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.~~

9
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.

18
19
20 _____
21 Chair

22 ATTEST:

23
24 _____
25 Municipal Clerk
26

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

**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,

in which the real property is located, of a person or persons of a particular race, color, sex, religion, national origin, marital status, age, [OR] physical or mental disability, **sexual orientation or gender identity** 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.

*** *** ***

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

*** *** ***

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

*** *** ***

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

*** *** ***

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

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

Section 3. Anchorage Municipal Code 5.20.020 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):

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

A. **With the exception of the practices identified in AMC 5.25.030A. as "lawful practices,"** it is unlawful for the owner, lessor, manager, agent, brokerage service, or other person having the right to sell, lease, rent, advertise, or an owner's association having the powers of governance and operation of real property to:

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

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

5.20.030 Unlawful financing practices.

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

1. Discriminate against the applicant 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 obtainment or use of the institution's financial assistance, insurance or credit.
2. Make or cause to be made 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 the institution's financial assistance, insurance or credit unless the inquiry is for the purpose of ascertaining the applicant's creditworthiness or insurability.
3. Refuse to extend credit, issue a credit card, insure or make a loan to a single, divorced, pregnant or married person who is otherwise creditworthy, if so requested by the person **or to refuse to extend credit, issue a credit card, insure or make a loan to a creditworthy person based on that person's sexual orientation or gender identity.**

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

Section 5. Anchorage Municipal Code Chapter 5.20.040 is hereby amended to read as follows (other language is unaffected and therefore not set 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

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]

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

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

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

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)
16

17 **Section 8.** Anchorage Municipal Code Chapter 5.20.070 is hereby amended to read as
18 follows:
19

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.**

2. **Impose reasonable dress codes, work rules, codes of conduct, or other rules of general application.**

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.**

B. **Religious organization exemption: Under this chapter, a religious corporation, association, educational institution, or society which does not have as its primary purpose religious ritual or worship or the**

1 teaching or spreading of religious doctrine or belief, may uniformly
2 require, as a condition of employment or membership, conformance with
3 all religious tenets that such corporation, association, institution, or
4 society declares significant. The declaration, by a religious corporation,
5 association, educational institution or society stating which of its
6 religious tenets are significant, shall not be subject to judicial or
7 administrative review.

8
9 **C.** **Ministerial exemption:** For any religious corporation, association,
10 educational institution, or society that is not exempt under subsection A,
11 this chapter shall not apply with respect to the employment of
12 individuals whose primary duties consist of teaching or spreading
13 religious doctrine or belief, religious governance, supervision of a
14 religious order, supervision of persons teaching or spreading religious
15 doctrine or belief, or supervision or participation in religious ritual or
16 worship.

17
18 **D.** **Religious preference exemption:** It shall be lawful for a [BONA FIDE]
19 religious or denominational institution, organization, corporation, association,
20 educational institution, or society, to limit, select or give preferential treatment
21 in employment, admissions, accommodations, advantages, facilities, benefits,
22 or services, to persons of the same religion or denomination, that is
23 reasonably calculated to promote the religious principles for which it is
24 established or maintained. [SUCH ORGANIZATIONS OTHERWISE REMAIN
25 SUBJECT TO THE OTHER PROVISIONS IN THIS TITLE WITH REGARD TO
26 RACE, COLOR, SEX, RELIGION, NATIONAL ORIGIN, MARITAL STATUS,
27 AGE, OR PHYSICAL OR MENTAL DISABILITY.]

28
29 (AO No. 92-116(S); AO No. 93-99; AO No. 2002-163, § 4, 1-7-03)

30
31 **Section 11.** This ordinance shall become effective immediately upon its passage and
32 approval by the Assembly.

33
34
35 PASSED AND APPROVED by the Anchorage Assembly this _____day of
36 _____, 2009.

37
38
39 _____
40 Chair

41 ATTEST:

42
43 _____
44 Municipal Clerk
45

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

FLOOR AMENDMENT TO AO 2009–64(S-2)

Amendment #1. Section 2, page 2, beginning line 15, AMC **5.20.010 Definitions**, is amended to add the following:

Employer means an employer, public or private, of **five** [ONE] or more persons.

Submitted by: ASSEMBLY MEMBER COFFEY
Prepared by: Assembly Counsel Office
For reading: August 11, 2009

**ANCHORAGE, ALASKA
AR NO. 2009-186**

**A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY AUTHORIZING A
CITIZEN TASK FORCE TO REVIEW THE NATURE AND EXTENT OF
DISCRIMINATION BASED ON SEXUAL ORIENTATION AND THE POTENTIAL FOR
CONFLICT WITH CONSTITUTIONAL RIGHTS.**

WHEREAS, the Assembly has taken several hours of public testimony concerning AO 2009-64 and two "S" versions, stretching out over several assembly meetings and involving over 500 persons offering their testimony; and

WHEREAS, an ordinance proposing amendment to the Anchorage Charter has recently been introduced which will offer additional opportunity for public testimony beyond that which the Assembly has already heard; and

WHEREAS, during public testimony, the Assembly heard testimony from numerous individuals about their personal experience with discrimination against them, which they testified was based on their sexual orientation; and

WHEREAS, during the public testimony, the Assembly heard testimony from numerous individuals about their personal religious beliefs and the potential for conflicts between the proposed ordinance to prohibit discrimination based on sexual orientation and the constitutional rights of freedom of expression, freedom of association and the free exercise of religion; and

WHEREAS, the testimony received in support of the proposed ordinance reflects individual experiences which, while strongly felt, have not been documented by data compiled and analyzed by an independent source which is not advocating for one result or another; and

WHEREAS, the testimony received in opposition to the proposed ordinance reflects strongly held opinion that the negative effects of the proposed amendment on the established constitutional rights of freedom of expression, freedom of association and the free exercise of religion will be significant, such opinions have not been documented by data or analysis from an independent source which is not advocating for one result or another; and

WHEREAS, the Assembly finds that it is in the best interests of the community for the Assembly and the community as a whole to have the benefit of a well documented factual basis and unbiased analysis prior to making any decision to change existing law relating to discrimination on the basis of sexual orientation, with a more complete understanding of the consequences of any amendment to existing law on

1 such fundamental rights as the freedom of expression, freedom of association and the
2 free exercise of religion;

3
4 NOW THEREFORE, the Assembly RESOLVES as follows:
5

- 6 1) Unfair discrimination against any citizen of Anchorage in the areas of housing,
7 employment, financing or public accommodation for reasons which are unrelated
8 to the ability of the person to perform a job or pay financial obligations is
9 condemned by the Assembly.
10
- 11 2) Causing conflict with the constitutional rights of freedom of expression, freedom
12 of association and the free exercise of religion by creating a new classification
13 under the Municipal Charter or by amending the existing anti-discrimination laws
14 of the Municipality, in the absence of clear and convincing evidence that
15 pervasive discrimination exists and understanding the nature and extent of the
16 possible conflicts, is not an appropriate legislative action.
17
- 18 3) In order to inform the Assembly to the greatest degree possible as to the nature
19 and extent of discrimination based on sexual orientation and the potential
20 conflicts with constitutional rights, the Assembly Chair shall appoint a Task Force
21 of nine (9) citizens charged as follows:
22
 - 23 a. To consider, in an unbiased fashion and with a critical eye, all available
24 information concerning the degree to which discrimination based on
25 sexual orientation exists in housing, finance, employment and public
26 accommodation;
27
 - 28 b. To analyze such information in a concerted effort to determine the nature
29 and the extent of such discrimination;
30
 - 31 c. To distinguish discrimination decisions made by employers, landlords,
32 financial institutions and businesses for reasons other than a person's
33 sexual orientation.
34
 - 35 d. To report on the consequence of any sexual orientation amendment to
36 existing law on the constitutional rights freedom of expression, freedom of
37 association and the free exercise of religion. A legal analysis of the
38 consequences shall be part of the Task Force Report to the Assembly.
39
- 40 4) The Task Force members shall be appointed by the Assembly Chair in the
41 following manner:
42
 - 43 a. Three members, including the Chair of the Task Force, shall be selected
44 by the Chair.
45

- PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2009.

ATTEST:

Municipal Clerk