



AGENDA
AD HOC COMMITTEE ON DIVERSITY
Friday, August 26, 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
 - August 12, 2016
5. Presentation:
 - The Hispanic Community within our Region (Al Salas)
6. Action/Discussion:
 - A. City Attorney Update on the Human Rights Ordinance Chapter 297 Amendments
7. Other
 - Updates on Participants in the Committee
8. Adjourn

Please print

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MINUTES AD HOC COMMITTEE ON DIVERSITY Friday, August 12, 2016 @ 11:30 a.m. Council Conference Room, 10th Floor, City Hall

Call to Order

The meeting was called to order at 11:49 a.m.

Committee Members

Councilmember Carol Wood, Chair
Councilmember Patricia Spitzley-excused
Councilmember Jody Washington- arrived at 11:48 a.m.

Others Present

Sherrie Boak, Council Staff
Tammy Lemmer, TCOA
Elaine Womboldt
Steve Purchase
Jim Smiertka, City Attorney – arrived at 11:58 a.m. and left at 12:34 p.m.
Mark Dotson, Deputy City Attorney

No Quorum - Informational

Council Member Wood reminded Mr. Dotson that Law was supposed to pursue the possibility of allowance thru the current ordinance that the current LPD investigator housed in the HRCS Department could act as the investigator. Mr. Dotson stated that the ordinances clearly states the position addresses citizen complaints thru the police, however does not think the ordinance restricts its role. Council Member Wood then asked what Dr. Johnson had stated about the role of that position, and Mr. Dotson stated had informed him she would not allow his role in this capacity. Mr. Dotson noted that even though he is dedicated to the Police Commission he could not reconcile funding from the Police and Dr. Johnson stated HRCS is paying that position. Council Member Wood noted that if the investigator currently answers to the LPD for funding, that would be bias if there was a complaint against the LPD. If the position is not being used 8 hours a day by LPD, there is a window of opportunity for his services. Mr. Dotson stated that after a conversation he had with the City Attorney, a suggestion was made to have the Mayor appoint an independent to be the investigator on the complaints, however they were not sure on the funding for that type of proposal. Ms. Lemmer asked if it would be a standing appointment or case by case. Mr. Dotson stated it would standing on a term limit to be consistent.

Quorum – Meeting called to Order

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Council Member Washington suggested the City Attorney office had the process. Council Member Wood stated that if law handles it and there are charges against law there would be a conflict. She reminded everyone that currently there is an adopted ordinance on the books that is not enforceable. It was suggested that Law pursue amending the ordinance to reflect that the hearing officer is appointed by the Mayor with a 2 year time limit. Ms. Womboldt asked that the appointment include criteria. Mr. Purchases spoke on the need for the current hearing officer in HRCS handle these cases also because it is the appropriate department, and they person should be filling that role as the current ordinance is in effect today. Council Member Wood asked Mr. Dotson how, if an ordinance is in place and regulates, a department director can refuse to enforce. Mr. Purchase suggested in the implementation of the amended ordinance to structure it so that if the hearing officer hears less than a certain amount per year, then Council will appoint a separate person to fulfill that role. Council Member Washington stated her understanding that the citizen investigator is currently getting paid and if they have down time it would be okay to fulfill this role. The Council's job is legislature and the administration job is to regulate. There should be no need to pay a current staff person, and then hire another person to do the same thing. Council Member Washington concluded by stating that Dr. Johnson needs to attend a meeting for this discussion. Council Member Wood reminded the Committee and group that the last time Dr. Johnson was present at a meeting she stated she didn't have any staff to do the work, therefore was not responsible for it. Mr. Dotson confirmed he was told by Dr. Johnson she would not commit to doing it. Mr. Smiertka again recommended the appoint of a citizen, however understands if we have an investigator already why hire. Council Member Wood suggested pursuing the appoint of a hearing offices so the ordinance can move forward and be enforced. Mr. Dotson stated Dr. Johnson has agreed to receive the complaint, vet it to determine if it needs to go further, determine if there is enough evidence and move onto an officer at that point. The Committee was referred to page 20, line 5 of the ordinance. Mr. Smiertka recommended removing everything after page 23, line 13. The HRCS department would receive the complaints, screen and find merit for more investigation then refer to the City attorney office to schedule the informal hearings. Mr. Dotson stated he would work with Mr. Smiertka on a final draft for the next meeting, and Council Member Wood clarified that all complaints will go to law.

Upcoming meeting topics

The Committee suggested Ms. Riley the HR Director to speak on all hiring in the City, Code Compliance to discuss their effect on different groups, Mr. Dotson suggested representatives from Black Lives Matter, and Council Member Washington encourage more involvement with the Latino community. The Latino Community is currently pursuing the formalization of renaming Grand River permanently to Cesar Chavez.

Minutes

MOTION BY COUNCIL MEMBER WASHINGTON TO APPROVE THE MINUTES FROM JULY 22, 2016 AS PRESENTED. MOTION CARRIED 2-0.

Mr. Dotson asked the Committee what process they were using to promote diversity and who speaks to that. Council Member Washington acknowledged that the Latino community is looking for more support, more assistance with employment and better assistance with community education.

Council Member Wood mentioned a future Committee on Public Safety meeting regarding 3200 S. Washington that will be held at the McLaren Education Center on August 30, 2016. Ms. Lemmer clarified she could not provide transportation, but could provide information on

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transportation services to Council Staff. This type of transportation will have a cost associated with it.

Mr. Dotson suggested inviting a member from the transgender community to a future meeting.

Adjourn

Adjourn at 12:46 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.

Nothing herein contained shall be construed to prohibit any cause of action based on any other

Lansing, Federal or State law.

(Ord. No. 1120 § 1, 12-18-06)

297.02. - Definitions.

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

Age: Chronological age as measured from date of birth.

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

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

**BULLYING: REPEATED, PERSISTENT, WILLFUL, AGGRESSIVE BEHAVIOR
DIRECTED AT ANOTHER PERSON THAT IS INTENDED TO CAUSE HARM TO THE
OTHER PERSON'S BODY, EMOTIONS, SELF-ESTEEM OR REPUTATION.**

Contractor: A person who by contract furnishes services, materials or supplies. "Contractor" does not include a person who is merely a creditor or debtor of the City, such as those holding the City's notes or bonds or persons whose notes, bonds or stock are held by the City.

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

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

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

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

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

Employer: Any person with a business located within or doing business within the corporate

City limits of Lansing or doing Business with the City of Lansing who employs or is seeking to employ five or more employees, including any agent of that person or entity.

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

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

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

Family: Any one of the following:

(1) An individual who is pregnant; or

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

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

Gender identity or expression: A person’s gender-related self-perception, appearance, or

behavior, regardless of that person's BIOLOGICAL sex at birth.

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

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

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

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

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

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

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

Marital status: The state of being single, married, separated, divorced, in a functional family, or

1 a surviving spouse.

2
3 Mental limitation: Actual or perceived disability or handicap, as those terms are defined in the
4 Michigan Persons With Disabilities Civil Rights Act, or limitation regarding mental capabilities
5 unrelated to a person's ability to:

6 (1) Perform a particular job or profession or qualify 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 "Mental limitation" includes, but is not limited to, developmental disabilities, psychological
12 conditions, and the use by any person of adaptive devices, aids, or medication to mitigate such
13 limitations. "Mental limitation" does not include any condition caused by the current use of an
14 illegal or controlled substance or alcohol.

15
16 National origin: The country where a person or a person's ancestors were born. Discrimination
17 against a person based on national origin shall include discrimination against nonnaturalized
18 citizens and persons for whom English is a second language.

19
20 Perceived: As used in this chapter "perceived" refers to the perception of the person who acts,
21 and not to the perception of the person for or against whom the action is taken..

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

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

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

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

1
2 "Physical limitation" does not include any condition caused by the current use of an illegal or
3 controlled substance, or alcohol.

4
5 Place of public accommodation: A place open to the general public that is a facility or business
6 of any educational, governmental, nonprofit, health, day care, entertainment, cultural,
7 recreational, refreshment, transportation, or human services, financial, or other business of any
8 kind, whose goods, services, facilities, activities, privileges, or advantages are extended, offered,
9 sold, rented, leased, or otherwise made available to the public.

10
11 Public services: Goods, services, facilities, activities, privileges, or advantages extended,
12 offered, sold, rented, leased, or otherwise made available to the public through a department,
13 agency, board, or commission owned, operated, or managed by or on behalf of the state or a
14 political subdivision of the state or a nonprofit organization, including tax-exempt private
15 agencies, which receive financial support through the solicitation of the general public or through
16 governmental subsidy of any kind.

17
18 Real property: Any habitable or potentially habitable land or building, as used in this definition
19 "habitable building" includes, but is not limited to, single and multiple family homes,
20 apartments, condominiums, housing cooperatives, mobile homes or trailers, mobile home or
21 trailer parks, and tenements, including any lease or interest in real property.

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

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

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

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

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

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

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

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

(Ord. No. 1120, § 1, 12-18-06)

297.03. – Discriminatory employment practices.

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

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

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

(Ord. No. 1120, § 1, 12-18-06)

297.04. – Discriminatory Public Accommodation Practices.

(a) No person shall discriminate against any other person by withholding, denying, curtailing,

1 or otherwise limiting the full use and enjoyment of places of public accommodations.

2
3 (b) No person shall prohibit a breastfeeding mother from or segregate a breastfeeding mother
4 within any place of public accommodation where she and the child would otherwise be
5 authorized to be.

6 (Ord. No. 1120, § 1, 12-18-06)

7
8 297.05. – Discrimination in provision of public services.

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

12 (Ord. No. 1120, § 1, 12-18-06)

13
14 297.06. – Discriminatory housing practices.

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

19
20 (b) No person shall discriminate in (a) the application, conditions, or granting of mortgages or
21 other financing, (b) the offer, conditions, or sale of home-owner or rental insurance, or (c) the

1 contracting of construction, rehabilitation, maintenance, repair, or other improvement of any
2 housing facility.

3
4 (c) No person shall refuse to lend money for the purchase or repair of any real property or insure
5 any real property solely because of the location in the city of such real property.

6
7 (d) No person shall promote any sale, rental, lease, sublease, Exchange, transfer, or assignment
8 of real property by representing that changes are occurring or will occur in an area with respect
9 to any irrelevant characteristics.

10
11 (e) No person shall indicate, communicate, or otherwise represent to another person that any real
12 property or interest therein is not available for inspection, sale, rental, or lease knowing in fact it
13 is available, including failing to make a person aware of a real property listing, refusing to permit
14 inspection of real property, and representing that a property has been sold when In fact it has not.

15
16 (f) No person shall offer, solicit, accept, use or retain a listing of real property or an interest
17 therein with the understanding that a person may be discriminated against in a real estate
18 transaction or in the furnishing of facilities or services in connection therewith.

19 (Ord. No. 1120, § 1, 12-18-06)

20
21 297.07. - Other prohibited practices.

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

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

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

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

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

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

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

(2) Intimidate, threaten, harass, or retaliate against another person for making a complaint or

1 assisting in an investigation regarding an alleged violation of this chapter.

2
3 (e) No person shall provide false or misleading information to any authorized person
4 investigating a complaint regarding a violation or alleged violation of this chapter, or sign a
5 complaint for a violation of this chapter based upon false or substantially misleading
6 information.

7 (Ord. No. 1120, § 1, 12-18-06)

8
9 297.08. - Exceptions.

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

12 (a) Employment;

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

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

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

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

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

9 (b) Public accommodation and public services;

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

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

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

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

21 (5) It is permissible to provide discounts on products or service to students, minors, and

1 senior citizens.

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

4 (c) Housing;

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

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

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

14 (Ord. No. 1120, § 1, 12-18-06)

15
16 297.09. - Other exceptions as required by law.

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

19
20 (a) It is permissible to discriminate in employment, public accommodation, public services,
21 housing, AND HEALTH CARE based on a person's age, income level, or mental or physical

1 limitations when such discrimination is required or allowed by Federal, State or Local
2 constitution, law, rule or regulation.

3
4 (b) It is permissible for a governmental institution to restrict access to any of its facilities or to
5 restrict employment opportunities based on duly adopted institutional policies that conform to
6 Federal, State or local constitution, law, rule or regulation.

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

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

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

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

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

19 (h) Nothing in this chapter shall affect, replace, or diminish the duties, obligations, rights, or
20 remedies as otherwise provided by any union contract, collective bargaining agreement, or
21 federal, state or local constitution, law, rule or regulation, which shall control over this chapter.

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

(Ord. No. 1120, § 1, 12-18-06)

297.10. - Complaints.

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

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

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

- (1) Be responsible for determining whether there is sufficient evidence of a violation of this chapter. If the department determines that sufficient evidence of a violation exists, it will

1 refer the matter to the Office of the City Attorney;

2 (d) Upon receipt of a referral from the Department, the Office of the City Attorney shall:

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

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

7 (3) Commence and complete the complaint investigation, mediation/conciliation, and
8 recommendation process in a timely manner.

9 (e) The office of the City Attorney shall be responsible for promulgating and publishing rules
10 and guidelines for processing, investigating, mediating/conciliating, and recommending
11 resolution of the complaint. (Ord. No. 1120, § 1, 12-18-06)

12
13 297.11. - Investigation and hearing.

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

17
18 (b) If the Office of the City Attorney determines that the complaint and preliminary evidence
19 gathered indicates a prima facie violation of this chapter, The Office of the City Attorney shall
20 assign a person to conduct a hearing (hereinafter referred to as the "Hearing Officer") within 90
21 days after completion of its preliminary investigation. The person who is alleged to have

committed a violation (the “Respondent”) and the claimant shall be sent by regular mail at least 14 days advance, notice of the scheduled date and time of the hearing and a request for each to appear. At the hearing, testimony will be taken. All testimony shall be on the record, under oath and either recorded or transcribed. Both Claimant and Respondent shall be allowed to testify, present evidence, bring witnesses to testify, and to cross examine all witnesses at the hearing. Technical rules of evidence shall not apply.

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

(Ord. No. 1120, § 1, 12-18-06)

297.12. Findings and recommendations.

The Hearing Officer shall make findings of fact based on the testimony and evidence introduced at the hearing and shall recommend such relief as the hearing officer deems appropriate. The Claimant and Respondent shall have the right to appeal the Hearing Officer’s findings and recommendations in writing within 30 days to the Hearing Officer. On appeal, the hearing record and Hearing Officer’s findings and recommendations shall be reviewed by the City Attorney, who shall approve, approve with modification, or disapprove of the findings and recommendations. After the City Attorney’s review, the Hearing Officer’s findings and recommendations shall be served by regular mail on the Claimant and Respondent. The parties shall have 30 days to comply with such findings and recommendations, unless a different time to comply is provided by The Hearing Officer.

(Ord. No. 1120, § 1, 12-18-06)

297.13. Available recommendations and remedies.

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

- (a) Ceasing the illegal conduct cited in the complaint and taking steps to alleviate the effect of such illegal conduct;
- (b) Requiring the respondent apologize to the Claimant;
- (c) Closure of the matter based upon a mediation/ conciliation agreement of the Claimant and Respondent;
- (d) Requiring the respondent pay damages for injury or loss;
- (e) Hiring, reinstating, or promoting the Claimant, with or without back pay, or providing such fringe benefits as the Claimant may have been denied;
- (f) Selling or leasing of housing or dwelling unit in question to the Claimant;
- (g) Admitting the claimant to a place of public accommodation or extending full and equal use and enjoyment of said place of public accommodation;
- (h) Paying some or all of the Claimant's costs, costs incurred at any stage of review;
- (i) Posting the explanation of and requirements for compliance with this chapter;
- (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 and outside government agency 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

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

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

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

- (1) First violation\$ 150.00
- (2) Second violation \$ 250.00
- (3) Third (or any subsequent) violation \$ 500.00

(e) Continuing violation.

(1) For an offense that is a single and discrete occurrence, a single violation shall accrue (for example, a single act of harassment like a racial epithet). Subsequent single and discrete occurrences shall result in additional violations according to the above schedule (for example, two separate instances of racial epithets would constitute a first and second violation).

(2) For offenses that are continuing in nature, rather than single and discrete, the first

violation shall accrue with the first day of the occurrence, and subsequent violations shall accrue for each additional day of that occurrence (for example, an impermissible hiring practice that continues each day on an ongoing basis).

(3) For continuing violations under subsection (f)(2), the day of the first occurrence shall be measured from the day of service of the complaint.

(Ord. No. 1120, § 1, 12-18-06)

297.16. - Private actions.

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

(Ord. No. 1120, § 1, 12-18-06)

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

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

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

DRAFT #7
August 18, 2016
Approved as to form:

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City Attorney
Dated: _____