MUNICIPALITY OF ANCHORAGE
Office of the Municipal Attorney
Memorandum

DATE: January 18, 2017

TO: Amanda K. Moser, Deputy Municipal Clerk
Barbara Jones, Municipal Clerk

FROM: William D. Falsey, Municipal Attorney WDF
Deitra L. Ennis, Deputy Municipal Attorney DE
Dean T. Gates, Assistant Municipal Attorney DTG

SUBJECT: Initiative 2017-1 – "Protect Our Privacy" Initiative
Dept. of Law Matter No. 17-0088

QUESTION:

Is Initiative Petition Application number 2017-1, entitled by its sponsors the "Protect Our Privacy Initiative," legally sufficient?

BRIEF ANSWER:

Subject to the following discussion, our brief answer is no. The Anchorage Municipal Code mandates that initiative petitions may address only "a single subject." *See* AMC 2.50.020B.3.d. No single subject unifies the various, disparate components of the law sought to be initiated by petition 2017-1.

Among other things, the initiative petition requested in the application 2017-1 would:

(1) regulate access to restrooms and changing facilities on the basis of sex, defined "by anatomy and genetics at the time of birth," and permit employers, public accommodations and "other person[s]" to enforce sex-specific dress and grooming standards;

(2) permit employers, public accommodations and "other persons," on the basis of their views regarding marriage and pre-martial sexual relations, to variously refrain from participating in certain marriage-related activities, to hire, fire or discipline employees, and to refrain from providing or assisting with adoption services, and

(3) broadly declare that no public accommodation may be compelled to engage in any communication, or promote any expressive event "with which . . . the owner or operator disagrees."

The first category would permit or require a set of "sex"-based practices.

The second category would authorize certain entities to act, or refrain from acting, in accordance with their views of marriage and pre-marital sex.

The final category would purport to allow public accommodations to refrain from assisting in conduct supporting *any* message to which the owner or operator of the public accommodation, "as a matter of . . . conviction," objects.

A portion of the first category is styled as addressed to "privacy" concerns. The remainder of the first category, and the second and third categories, are not, and do not. No other "general subject, theme, or purpose" ties together the ordinance proposed by the sponsors.

Because the initiative petition sought in the application is not addressed to a single subject, we recommend that the Municipal Clerk inform the sponsors that the petition is legally insufficient and will not be certified.

In light of this conclusion, we do not undertake a further analysis as to whether the initiative petition suffers from additional legal infirmities. (Some of the provisions may not be enforceable as a matter of law, or may be clearly unconstitutional under common law.)

BACKGROUND:

On January 3, 2017, sponsors submitted to the Municipal Clerk an application for an initiative petition titled, "Protect our Privacy Initiative"[1] (hereafter "Application"). The proposed petition includes two petition committee sponsors, the names and signatures of more than ten persons purporting to be qualified voters to sponsor the petition application, and proposes to circulate to voters the following question (verbatim as in original):

> Shall the Anchorage Municipal Code be amended to: protect the privacy of citizens by requiring that certain restrooms and changing facilities in municipal buildings be designated for and used only by persons of the same sex; provide that private employers, public accommodations and other persons may lawfully choose to adopt sex-specific standards for restroom

[1] Exhibit A.

> access, and dress and grooming policies; provide that no public accommodation may be forced to promote a message or expressive event with which the owner or operator disagrees; provide that employers, public accommodations and other persons may not be compelled to participate in certain activities that violate a sincerely held religious belief or moral conviction; and provide exemptions for religious organizations with respect to employment decisions and the provision of adoption services?

The Application then sets forth the full text of the language it seeks to codify in the Anchorage Municipal Code as a new chapter 3.102 *Privacy Protection in Restrooms and Changing Facilities,* and as amendments to Anchorage's existing *Equal Rights* title.[2]

DISCUSSION:

Applicable Law

Pursuant to Anchorage Municipal Code subsection 2.50.030A., "…[w]ithin ten business days after receiving a completed application, the municipal clerk shall verify the sponsors' qualifications and, after consultation with the municipal attorney, determine and certify the legal sufficiency, or lack thereof, of the application and the proposed initiative or referendum."

Pursuant to AMC subsection 2.50.020B.3., an application must set forth "the petition proposed to be circulated," which must:

a. set out verbatim the ordinance or resolution sought to be enacted or repealed by the petition;
b. have the required names, residence and mailing addresses, signatures, and dates of signatures of the initial contact persons and sponsors;
c. meet constitutional, charter and other legal requirements or restrictions;
d. include only a single subject; and
e. be enforceable as a matter of law or be clearly denominated as advisory only.

AMC subsection 28.40.010D.1.b. requires that, when placed on a municipal ballot, "a summary description, including the question, of each proposition" presented to voters must prepared in "a fair, true and impartial manner by the municipal attorney in consultation

[2] *See id.*

with the municipal clerk."

The Alaska Supreme Court has held that its pre-election review of a proposed initiative petition is limited to determining whether the petition "compl[ies] with the constitutional and statutory provisions regulating initiatives," and whether the petition is "clearly unconstitutional or unlawful."[3] The Court has held that "[t]he right of initiative and referendum, sometimes referred to as direct legislation, should be liberally construed to permit exercise of that right."[4]

The Anchorage Municipal Charter provides that "[t]he powers of initiative and referendum do not apply to ordinances establishing budgets, fixing mill levies, authorizing the issuance of bonds, or appropriating funds."[5]

A provision of the Alaska Constitution, with which home rule municipalities must comply as a consequence of state law,[6] further provides that "[t]he initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation."[7]

Further, the Alaska Supreme Court has held that the powers of the initiative are restricted only to "enactments that are legislative rather than administrative or executive in character."[8]

Last, the Alaska Supreme Court has held that "[t]he signature-gathering requirement of the referendum process serves an important screening purpose,"[9] and that a referendum petition "should be a source of accurate information for all citizens concerning what is being proposed."[10] The Court subsequently applied these standards to initiative petitions

---

3 *Price v. Kenai Peninsula Borough*, 331 P.3d 356, 359 (Alaska 2014).

4 *Thomas v. Bailey*, 595 P.2d 1, 3 (Alaska 1979).

5 ANCHORAGE MUNICIPAL CHARTER § 3.02(a).

6 *See* AS 29.10.030 *Initiative and Referendum,* which provides:

> (a) A home rule charter shall provide procedures for initiative and referendum.
>
> . . .
>
> (c) A charter may not permit the initiative and referendum to be used for a purpose prohibited by art. XI, § 7 of the state constitution.

7 ALASKA CONST. art. XI, § 7.

8 *Municipality of Anchorage v. Holleman*, 321 P.3d 378, 385 (Alaska 2014). The state has codified the restriction for initiatives in a municipal election to legislative matters only in AS 29.26.110(a)(3), which is not a restriction on home rule municipalities.

9 *Faipeas v. Municipality of Anchorage*, 860 P.2d 1214, 1219 (Alaska 1993).

10 *Id.* at 1220.

as well.[11] The Court has held that "a petition summary should be 'complete enough to convey an intelligible idea of the scope and import of the proposed law, and that it ought to be free from any misleading tendency, whether of amplification, of omission, or of fallacy, and that it must contain no partisan coloring.' "[12] The Court has suggested that requirement is constitutional in nature,[13] and it accords with related provisions of municipal law.[14]

---

[11] *See, e.g., Planned Parenthood of Alaska v. Campbell*, 232 P.3d 725, 732 (Alaska 2010) (initiative petition case in which Court noted that "requiring petition summaries for initiatives to be clear and honest 'is necessary '[t]o guard against inadvertence by petition-signers and voters and to discourage stealth by initiative drafters and promoters' ")'; *Citizens for Implementing Med. Marijuana v. Municipality of Anchorage*, 129 P.3d 898, 901-02 (Alaska 2006) (initiative petition case):

> The signature-gathering requirement ensures that only propositions with significant public support are included on the ballot. But when a petition, including its title and summary, is confusing or misleading, petition signers may not understand what they are signing. Signatures on a confusing or misleading petition therefore may or may not indicate support for the measure. Under such circumstances, it cannot be known whether the signature-gathering requirement has served its screening function.

[12] *Faipeas,* 860 P.2d at 1218 (quoting *Burgess v. Alaska Lieutenant Governor*, 654 P.2d 273 (Alaska 1982) (citing *Hope v. Hall*, 229 Ark. 407, 316 S.W.2d 199, 201 (1958))). *See also id.* at 1219 (quoting *Sawyer Stores, Inc. v. Mitchell*, 103 Mont. 148, 62 P.2d 342, 348 (1936) (quoting *In re Opinion of the Justices*, 271 Mass. 582, 171 N.E. 294, 297 (1930)).

[13] *Id.* at n.8:

> The fair and accurate description requirement arguably has constitutional stature. Article I, section 2 of the Alaska Constitution states:
>
> > All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.
>
> Referring to this provision in *Boucher v. Bomhoff*, 495 P.2d 77, 78 (Alaska 1972), we stated: "it is basic to our democratic society that the people be afforded the opportunity of expressing their will on the multitudinous issues which confront them." A logical corollary to this interpretation of Article I, section 2 is that the people have a right to a fair and accurate summary of issues on which they are being asked to express their will. This right would extend to petitions in all elections subject to the state constitution, including those conducted by home rule municipalities.

(emphasis added).

[14] *See* AMC 28.40.010D.1.b (quoted in the text, above). We note that AMC 28.40.010D.1.b. formally applies only to the presentation of propositions *on a ballot*; here, the question presented is not whether language should appear on a ballot, but whether the Clerk should certify the application and issue a master form of petition. But the two circumstances are related. The master form of petition issued by the Municipal Clerk is used to gather the number of signatures necessary to support placing the proposition on the election ballot. AMC 2.50.030B. As stated earlier, the signature gathering function is important screening function for direct legislation by the initiative and ensures informed lawmaking. *Planned Parenthood of Alaska,* 232 P.3d at 731. Therefore the petition title, summary and question should be complete when circulating for signatures; to change it when creating the official ballot runs the risk of

Compliance with Applicable Law

In compliance with AMC subsection 2.50.020B.3.b. the Application includes the required names, residence and mailing addresses, and signatures of the initial contact persons and sponsors.[15] The proposed petition does not broach a subject matter prohibited by the Alaska Constitution or Anchorage Municipal Charter. The ordinance that the sponsors seek to amend applies throughout the Municipality, and embraces a subject of "common interest" to the people of the Municipality, and therefore the petition does not propose local or special legislation.[16]

We nevertheless conclude that the initiative should not be certified as the petition does not address a single subject. We do not reach the question of whether the proposed code amendments would be enforceable as a matter of law or clearly unconstitutional, and advise the sponsors a resubmitted application is subject to further legal review.

The Ordinance Proposed to Be Initiated Does Not Address a "Single Subject"

While the Anchorage Municipal Code requires that municipal initiative petitions must address only a single subject, the Alaska Constitution and state law impose a similar restriction on acts of the legislature[17] and state initiatives.[18] This has given the Alaska Supreme Court occasion to have ruled on the "single subject rule" no less than eight times.

In its prior decisions in the area, the Alaska Supreme Court has advised that "the single-subject rule protects the voters' ability to effectively exercise their right to vote by requiring

---

thwarting that function and, if challenged in court, risks invalidation if it does not pass muster under the standard of review for an initiative altered for the ballot after being circulated for signatures with a defective summary. *Cf. Planned Parenthood of Alaska,* 232 P.3d at 734 (concluding that if an initiative petition was circulated with a defective summary and filed with signatures, it may only appear on the ballot if the following have been duly considered: the nature and magnitude of the misleading statement or omission, the likelihood and extent of petition-signer inadvertence, the hardship to initiative sponsors that invalidating signatures would cause, and the hardship to the initiative's opponents that permitting the initiative to go forward would cause).

15 The veracity of the submitted information is subject to verification by the Municipal Clerk.

16 *Cf. Price*, 331 P.3d at 359-360.

17 *See* ALASKA CONST. art. II § 13 *Form of Bills.*:

> Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws.

(emphasis added).

18 *See* AS 15.45.040 *Form of proposed bill* ("the bill [proposed by initiative] shall be confined to one subject").

that different proposals be voted on separately."[19] In particular, the rule: "allows voters to express their will through their votes more precisely, prevents the adoption of policies through stealth or fraud, and prevents the passage of measures lacking popular support by means of log-rolling."[20]

The Court has held that it must "balance the rule's purpose against the need for efficiency in the legislative process," noting that "[i]f the rule were applied too narrowly, 'statutes might be restricted unduly in scope and permissible subject matter, thereby multiplying and complicating the number of necessary enactment[s] and their interrelationships.'"[21] The Court's "solution" has been to construe the single-subject rule "with considerable breadth," using the following test:

> All that is necessary is that [the] act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject.[22]

In seven of the eight cases it has heard on the issue, the Court upheld measures alleged to have violated the single-subject rule.[23]

---

19 *Croft v. Parnell*, 236 P.3d 369, 372 (Alaska 2010).

20 *Id.*

21 *Id.* at 372-373 (citations omitted).

22 *Id.* at 373 (citations omitted).

23 Prior cases include:

- *Evans ex rel. Kutch v. State*, 56 P.3d 1046 (Alaska 2002) (changes to damages recoverable for torts, changes to tort statutes of limitations, change to allocation of fault between parties in tort suits, change to offer of judgment rules, and grant of partial immunity to hospitals all "within the single subject of 'civil actions' ");
- *Yute Air Alaska Inc. v. McAlpine*, 698 P.2d 1173 (Alaska 1985) (repeal of regulations of "motor and air carriers in Alaska," prohibition on further similar regulation, and requirement that governor seek repeal of federal statute that, among other things, regulates shipping by sea, all embraced by "[t]he subject 'transportation' ");
- *State v. First Nat'l Bank of Anchorage*, 660 P.2d 406 (Alaska 1982) (provisions regulating sale of private land, and provisions on state's power to lease state-owned land and zone private lands all "in some respect concern[ ] land");
- *Short v. State*, 600 P.2d 20 (Alaska 1979) (purposes of new correctional facilities "sufficiently related to the purposes" of new buildings for "state troopers, fish and wildlife protection, a motor vehicles division, [and] a fire prevention division");
- *North Slope Borough v. SOHIO Petroleum Corp.*, 585 P.2d 534 (Alaska 1978) (various provisions

But the Court has made clear that the restriction is not meaningless, and that it will enforce the rule. In its most recent decision in the area, the Court invalidated a proposed initiative that sought to: (1) enact a program of public financing for state elections, and (2) enable the state to pay for the program through a new oil production tax.[24] The Court found that the initiative involved "two independent provisions" that could "appeal[] to different constituencies," the "essence of log-rolling."[25]

Initiative Petition 2017-1 fails the Court's single-subject test. The petition would put to the electorate a compound question, requiring, for instance, voters to express a view both on whether bathroom access should depend on one's anatomy and genetics at birth (replacing the right of persons to use the restroom facility consistent with the person's gender identity),[26] and on whether a hospital affiliated with a Catholic charity should be able to fire a janitor for being Lutheran.[27] Potentially lost in the discussion of more prominent features of the petition relating to bathrooms and dress codes are important changes to the law it would enact: the measure would also permit providers of public accommodations to refuse to provide wedding-related services to a person who conceived a child out of wedlock,[28] and can be taken as authorizing a public accommodation to refuse to post any sign otherwise required by law, so long as the owner or operator, "as a matter of . . . conviction," disagrees with the message.[29]

---

on municipal and state taxes all "relate directly to state taxation");

- *Gellert v. State*, 522 P.2d 1120 (Alaska 1974) (flood control projects and small boat harbors "all part of a cooperative water resources development program");
- *Suber v. Alaska State Bond Comm.*, 414 P.2d 546 (Alaska 1966) (criminal penalty for false statements in application for earthquake relief funds "fairly incidental to the general subject ... of grants to homeowners").

24 *See Croft*, 236 P.3d 369.

25 *Id.* at 374.

26 *See* Initiative Petition at section 1, section 2.

27 *See* proposed section 4, AMC 5.20.080D. ("it shall not be unlawful for a religious organization . . . to . . . terminate . . . an individual, based on whether the individual's . . . religious beliefs are consistent . . . with those of the religious organization").

28 *See* proposed section 3, AMC 5.20.080E. ("No . . . other person shall be required . . . to participate in any activity . . . related to the . . . the celebration of any marriage when such activity . . . violates . . . a moral conviction . . . that sexual relations . . . should be exclusive to the context of marriage . . . ").

29 *See* proposed section 3, AMC 5.20.080C. ("no public accommodation shall be required or compelled to . . . promote any message . . . with which . . . the owner or operator disagrees"). *Cf.* AMC 10.80.325 *Access restricted at marijuana retail store.* ("Each entry to a retail marijuana store must be posted with a sign that says "No one under 21 years of age allowed."). The permission to refuse to post signs may be unenforceable as a matter of law, or preempted by state or federal law. We do not reach this question here, but identify it as an issue that potentially could preclude enactment of this provision by the initiative, if resubmitted in a petition application covering a single subject.

Further, the lack of any single "general idea" unifying the measure may be best demonstrated by attempting to draft the ballot proposition sought in the application, were the application to be certified and returned with the required number of valid signatures. In that event, following standard Municipal practice, a short title for the ballot proposition would have to be prepared. Our office would advise against using the sponsor's suggested title – the "Protect our Privacy Initiative" –as it is neither neutral[30] (because many, particularly in the transgender community, would see the measure as *undermining* their privacy interests), nor a fair shorthand for the measure (given that few, if any of the "lawful practices" and "religious freedom exemptions" that would be enacted by sections 3 and 4 of the measure, could be fairly construed as serving a privacy interest). Yet, in its absence, no reasonable shorthand for the measure, reflective of a single "general idea" animating and unifying the petition, suggests itself.[31]

We conclude that Initiative Petition 2017-1 violates the single-subject rule in form and substance.

CONCLUSION:

Because Initiative Petition 2017-1 is not addressed to a single subject, we conclude that it is legally deficient. We recommend that the Municipal Clerk's office decline to certify the petition.

---

30 *Cf.* AMC 28.40.010D.1.b. (when placed on a municipal ballot, "a summary description, including the question, of each proposition" presented to voters must prepared in "a fair, true and impartial manner by the municipal attorney in consultation with the municipal clerk").

31 *See* attachment A, for example.

Attachment A

~ Hypothetical Ballot Proposition Language[32]*~*

Proposition No. ____
Access to Restrooms and Changing Facilities &
***Equal Rights* Title Amendments To Provide Various Exemptions for Employers, Public Accommodations and Other Individuals, on the Basis of Their Views Regarding Marriage and Pre-Marital Sexual Relations, For Marriage-Related Activities, Employment Decisions, and Adoption Services &**
To Provide that Public Accommodations May Not Be Compelled to Promote a Message or Expressive Event With Which the Owner or Operator Disagrees

Initiative Petition 2017-1 proposes an ordinance to:

- declare a "right to physical privacy," defined to include the right "not to be seen in various states of undress by members of the opposite sex";
- define an individual's "sex" as an "individual's immutable biological condition of being male or female," as determined by "anatomy and genetics at the time of birth," without regard to the individual's current anatomy or gender identity;
- require, with limited exceptions, that certain restrooms and changing facilities in municipal buildings be designated for and used only by persons of the same sex, defined as above;
- provide that private employers, public accommodations and other persons may lawfully choose to adopt sex-specific standards for restroom access, and dress and grooming policies;
- provide that no public accommodation may be forced to promote a message or expressive event with which the owner or operator disagrees;
- provide that employers, public accommodations and other persons may not be compelled to participate in marriage-related activities that violate a sincerely held religious belief or moral conviction that marriage is or should be recognized as the union of one man and one woman, that marriage is or should be recognized as the union of any two consenting adults, or that sexual relations should be exclusive to marriage;

[32] Note this language should not be taken as having been approved by the Municipal Attorney's office. It is presented here only to underscore the fact that the proposed initiative encompasses several, unrelated subjects.

- define "religious organization" to mean any entity with a religious purpose, regardless of whether it is affiliated with a house of worship, and certain individuals when acting in their official capacities for such organizations;

- permit such religious organizations to make employment-related decisions, including decisions as to whether to hire, terminate or discipline an individual, based upon whether an individual's beliefs are consistent with those of the religious organization;

- provide that individuals and religious organizations may not be required to provide or assist with adoption services, where provision of such services would conflict with a sincerely held belief of the individual or religious organization that marriage is or should be recognized as the union of one man and one woman, that marriage is or should be recognized as the union of any two consenting adults, or that sexual relations should be exclusive to marriage?

Should the ordinance proposed by Initiative Petition 2017-1 become law?

YES ☐ NO ☐

Municipality of Anchorage
Initiative and Referenda Application

#: 2017 - 1

Anchorage Charter: Section 3.20 ~ Anchorage Municipal Code: Chapter 2.50

Phone: 343-4311 Fax: 343-4313 Municipal Clerk: Jones, Barbara A.

Anchorage Municipal Code: Chapter 2.50.020 **Application for a petition**

2.50.020.B Form and content. The application shall contain:
3)The petition proposed to be circulated. The proposed petition shall be submitted on the form provided by the municipal clerk in the application packet. The proposed petition shall:
a.set out verbatim the ordinance or resolution sought to be enacted or repealed by the petition;
b.have the required names, residence and mailing addresses, signatures, and dates of signatures of the initial contact persons and sponsors;
c.meet constitutional, charter and other legal requirements or restrictions;
d.include only a single subject; and
e.be enforceable as a matter of law or be clearly denominated as advisory only.
(AO No. 2002-162, § 1, 12-17-02)

RECEIVED
OFFICE OF
JAN 03 2017
MUNICIPAL CLERK

Proposed Petition

Petition Title: _____

Proposed Petition: _____

SEE ATTACHED

Unsworn falsification in the second degree. "A person commits the crime of unsworn falsification in the second degree if, with the intent to mislead a public servant in the performance of a duty, the person submits a false written or recorded statement that the person does not believe to be true... on a form bearing notice, authorized by law, that false statements made in it are punishable. Unsworn falsification in the second degree is a class A misdemeanor. A.S. 11.56.210(2) and (2)(b).

2017-1

Proposed Petition

Petition Title: **Protect Our Privacy Initiative**

Proposed Petition: **Shall the Anchorage Municipal Code be amended to: protect the privacy of citizens by requiring that certain restrooms and changing facilities in municipal buildings be designated for and used only by persons of the same sex; provide that private employers, public accommodations and other persons may lawfully choose to adopt sex-specific standards for restroom access, and dress and grooming policies; provide that no public accommodation may be forced to promote a message or expressive event with which the owner or operator disagrees; provide that employers, public accommodations and other persons may not be compelled to participate in certain activities that violate a sincerely held religious belief or moral conviction; and provide exemptions for religious organizations with respect to employment decisions and the provision of adoption services?**

Bold underlined text indicates additions. [BRACKETED, CAPITALIZED TEXT INDICATES DELETIONS.]

Section 1. A new chapter is added to Anchorage Municipal Code, Title 3 – Administration, to read as follows:

Chapter 3.102 – PRIVACY PROTECTION IN RESTROOMS AND CHANGING FACILITIES

3.102.010 – Policy.

Persons using restrooms, locker rooms and similar facilities in buildings owned or operated by the municipality have a right to physical privacy that must be protected. The right to physical privacy includes the right not to be seen in various states of undress by members of the opposite sex. The failure to protect this right to physical privacy can create unsafe situations, and may potentially cause embarrassment, shame, and psychological injury.

3.102.020 – Definitions.

The following definitions apply in this chapter:

Multiple occupancy restroom or changing facility **means a facility designed or designated to be used by more than one person at a time where persons may be in various states of undress in the presence of other persons. A multiple occupancy restroom or changing facility may include, but is not limited to, a restroom, locker room, changing room, or shower room.**

Sex **means biological sex as defined in Anchorage Municipal Code section 5.20.010.**

Single occupancy restroom or changing facility **means a facility designed or designated to be used by only one person at a time where persons may be in various states of undress. A single occupancy bathroom or changing facility may include, but is not limited to, a single stall restroom designated as unisex.**

3.102.030 – Requirements for Multiple Occupancy Restroom and Changing Facilities.

A. **All multiple occupancy restrooms and changing facilities in buildings owned or operated by the municipality shall be designated for and used only by persons of the same sex.**

B. **Nothing in this section shall prohibit the municipality from providing accommodations such as single occupancy restroom or changing facilities upon a person's request due to special circumstances, but in no event shall that accommodation result in the municipality allowing a person to use a multiple occupancy bathroom or changing facility that is designated under subsection 3.102.030A for a sex other than the person's sex.**

C. **This section does not apply to persons entering a multiple occupancy restroom or changing facility designated for use by the opposite sex:**
   1. **For custodial or maintenance purposes, when the facility is not occupied by a member of the opposite sex.**
   2. **To render medical assistance.**
   3. **If the person is a disabled person requiring assistance or the caregiver of such a person, and the disabled person and his or her caregiver accompany one another for the purpose of allowing the disabled person to use the facility.**
   4. **If the person is a minor under the age of eight who accompanies a person caring for that minor.**
   5. **That has been temporarily designated for use by that person's biological sex.**
   6. **For purposes of protecting safety and good order during emergencies.**

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.

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*** *** ***

Religious organization **means:**

RECEIVED
OFFICE OF
JAN 0 3 2017
MUNICIPAL CLERK

1. **A house of worship, including but not limited to churches, synagogues, shrines, mosques, and temples;**

2. **A religious group, corporation, association, school or educational institution, ministry, order, society, or any other entity that has a religious purpose, regardless of whether it is integrated or affiliated with a church or other house of worship; or**

3. **An officer, owner, employee, manager, religious leader, clergy, or minister of an entity or organization described in this subsection, when acting in their official capacity.**

*** *** ***

***Sex* means an individual's immutable biological condition of being male or female, as objectively determined by anatomy and genetics at the time of birth. An individual's original birth certificate may be relied upon as definitive evidence of the individual's sex.**

*** *** ***

Section 3. Anchorage Municipal Code 5.20.080, Lawful Practices, is hereby amended to read as follows (*language indicating no amendment is included for context only*):

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, gender identity, religion, national origin, marital status, age, 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. **Notwithstanding any provision of this chapter, and except for the specific provisions applicable to municipal facilities under Anchorage Municipal Code chapter 3.102, it shall not be unlawful for any employer, public accommodation, or other person to establish and enforce sex-specific standards or policies concerning access to restrooms, spas, baths, showers, dressing rooms, locker rooms, or other intimate facilities or settings.**
[THE PROHIBITIONS AGAINST DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN THIS CHAPTER DO NOT PROHIBIT AN EMPLOYER OR AN OPERATOR OF A PLACE OF PUBLIC ACCOMMODATION FROM:
1. MAINTAINING AND ENFORCING GENDER-SEGREGATED RESTROOMS, LOCKER ROOMS OR DRESSING ROOMS, PROVIDED THAT PERSONS ARE ALLOWED TO USE SUCH FACILITIES CONSISTENT WITH THEIR GENDER IDENTITY AND NOTHING IN THIS CHAPTER SHALL BE DEEMED TO

RECEIVED
OFFICE OF THE
JAN 03 2017
MUNICIPAL CLERK

REQUIRE THE PROVISION OF SPECIAL FACILITIES TO ACCOMMODATE ANY PERSON(S) BASED UPON SEXUAL ORIENTATION OR GENDER IDENTITY.

2. IMPOSING REASONABLE DRESS CODES AND GROOMING STANDARDS, PROVIDED THAT PERSONS ARE ALLOWED TO DRESS OR GROOM CONSISTENT WITH THEIR GENDER IDENTITY.]

C. Notwithstanding any provision of this chapter, it shall not be unlawful for any employer, public accommodation, or other person to establish and enforce sex-specific standards or policies concerning dress or grooming, to the extent permitted by state and federal law.

D. Notwithstanding any provision of this chapter, no public accommodation shall be required or compelled to engage in any involuntary speech, artistic expression, or communication; or to otherwise print, publish, or promote a message or expressive event with which, as a matter of conscience or conviction, the owner or operator disagrees.

E. Notwithstanding any provision of this chapter, no employer, public accommodation, or other person shall be required or compelled to participate in any activity or perform any function related to the solemnization, formation, or celebration of any marriage when such activity or function violates a sincerely held religious belief or moral conviction that marriage is or should be recognized as the union of one man and one woman, or that marriage is or should be recognized as the union of any two consenting adults, or that sexual relations are or should be exclusive to the context of marriage as the employer, public accommodation, or other person defines it.

Section 4. Anchorage Municipal Code 5.20.090, Religious Exemptions, is hereby amended to read as follows (*language indicating no amendment is included for context only*):

5.20.090 – Religious **freedom** exemptions.

A. Religious-preference exception: 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. **Except as provided in this chapter,** [S]such organizations otherwise remain subject to the other provisions in this title with regard to race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability.

B. Ministerial exception: This chapter shall not apply with respect to the employment of individuals whose positions would fall within the "ministerial exemption" as described

by the United States Supreme Court in Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC, 132 S. Ct. 694 (2012).

C. Nothing in this chapter shall be construed to violate any rights to free speech or religious exercise guaranteed by the Constitution of the State of Alaska or the Constitution of the United States.

D. Notwithstanding any provision of this chapter, it shall not be unlawful for a religious organization to make any employment-related decision, including but not limited to the decision whether or not to hire, terminate, or discipline an individual, based upon whether the individual's conduct or religious beliefs are consistent or inconsistent with those of the religious organization.

E. Notwithstanding any provision of this chapter, no religious organization or individual shall be required to provide or otherwise help facilitate adoption services where the provision of such services conflicts with the religious organization's or individual's sincerely held religious belief or moral conviction that marriage is or should be recognized as the union of one man and one woman, or that marriage is or should be recognized as the union of any two consenting adults, or that sexual relations are or should be exclusive to the context of marriage as the religious organization or individual defines it.

Municipality of Anchorage

Office of the Municipal Clerk

632 West Sixth Avenue Anchorage, Alaska 99501 Suite 250
Mailing Address: P.O.Box 196650 Anchorage, AK 99519-6650

#: 2017 - 1

Phone: 343-4311 Fax: 343-4313 Municipal Clerk: Jones, Barbara A.

Initiative and Referenda Application

Anchorage Charter: Section 3.20 ~ Anchorage Municipal Code: Chapter 2.50

RECEIVED OFFICE OF JAN 03 2017 MUNICIPAL CLERK

Anchorage Municipal Code: Chapter 2.50.020 **Application for a petition**

2.50.020.B Form and content. The application shall contain:
1)The name, residence and mailing address, signature and date of signature of two resident citizens who have not been convicted of a felony and who are the primary and alternate contact persons to whom all correspondence relating to the petition may be sent. The two contact persons shall be considered sponsors;
2)The name, residence and mailing address, signature and date of signature of at least ten qualified voters not including the contact persons who will sponsor the petition. Additional qualified sponsors may be added not less than three days before the date of first circulation of the petition certified by the clerk;
(AO No. 2002-162, § 1, 12-17-02)

Primary Petition Committee Sponsor

Print Name: ~~Ste~~ Kim Minnery

Phone Number: (907) 227 0346

e-mail Address: kim_aksci@hotmail.com

Residence Address: [redacted]

Mailing Address: PO Box 231425, Anch 99523

Identifier: [redacted]
(Voter #, Social Security #, or Date of Birth)

Signature of Requestor: [redacted] Date: 12/31/2016

Alternate Petition Committee S

Print Name: Stephanie Williams

Phone Number: (319) 730-0694

e-mail Address: swilli8831@aol.com

Residence Address: [redacted]

Mailing Address: same

Identifier: [redacted]
(Voter #, Social Security #

Signature of Requestor: [redacted] Date: 12/28/16

http://www.muni.org/Assembly2/clerk.cfm

Municipality of Anchorage

#: 2017 - 1

Initiative and Referenda Application

Anchorage Charter: Section 3.20 ~ Anchorage Municipal Code: Chapter 2.50

Phone: 343-4311 Fax: 343-4313

Municipal Clerk: Jones, Barbara A.

Anchorage Municipal Code: Chapter 2.50.020 **Application for a petition**

2.50.020.B Form and content. The application shall contain:
3)The petition proposed to be circulated. The proposed petition shall be submitted on the form provided by the municipal clerk in the application packet. The proposed petition shall:
a.set out verbatim the ordinance or resolution sought to be enacted or repealed by the petition;
b.have the required names, residence and mailing addresses, signatures, and dates of signatures of the initial contact persons and sponsors;
c.meet constitutional, charter and other legal requirements or restrictions;
d.include only a single subject; and
e.be enforceable as a matter of law or be clearly denominated as advisory only.
(AO No. 2002-162, § 1, 12-17-02)

RECEIVED OFFICE OF THE JAN 03 2017 MUNICIPAL CLERK

Ten Qualified Voters

Printed Name	Residence Address	Mailing Address	*Identifier: Voter#, Social, or DOB	Signature	Date
Debra Bronson	[redacted]	Same	[redacted]	[redacted]	12/25/16
Katherine Bronson		Same			12/28/16
Kathryn Wheeles		same			12/28/16

Municipality of Anchorage

#: 2017 - 1

Initiative and Referenda Application

Anchorage Charter: Section 3.20 ~ Anchorage Municipal Code: Chapter 2.50

Phone: 343-4311 Fax: 343-4313 Municipal Clerk: Jones, Barbara A.

Anchorage Municipal Code: Chapter 2.50.020 **Application for a petition**

2.50.020.B Form and content. The application shall contain:
3)The petition proposed to be circulated. The proposed petition shall be submitted on the form provided by the municipal clerk in the application packet. The proposed petition shall:
a.set out verbatim the ordinance or resolution sought to be enacted or repealed by the petition;
b.have the required names, residence and mailing addresses, signatures, and dates of signatures of the initial contact persons and sponsors;
c.meet constitutional, charter and other legal requirements or restrictions;
d.include only a single subject; and
e.be enforceable as a matter of law or be clearly denominated as advisory only.
(AO No. 2002-162, § 1, 12-17-02)

RECEIVED OFFICE OF JAN 03 2017 MUNICIPAL CLERK

Ten Qualified Voters

Printed Name	Residence Address	Mailing Address	*Identifier: Voter#, Social, or DOB	Signature	Date
Betty Benandi	[redacted]	12521 Tanadaloop #1 Anchorage AK 995[illegible]	[redacted]		12-28-16
Ernestina Nashoum		4407 Klocke #1 Anchorage AK 99508			12/28/16
Whitney Williams		Anchorage AK			12/28/16
Taylor Arnes		"Same"			12/28/16
Theresa Miller		Same			12-28-16

Municipality of Anchorage

#: 2017 - 1

Initiative and Referenda Application

Anchorage Charter: Section 3.20 ~ Anchorage Municipal Code: Chapter 2.50

Phone: 343-4311 Fax: 343-4313 Municipal Clerk: Jones, Barbara A.

Anchorage Municipal Code: Chapter 2.50.020 **Application for a petition**

RECEIVED OFFICE OF JAN 03 2017 MUNICIPAL CLERK

2.50.020.B Form and content. The application shall contain:
3)The petition proposed to be circulated. The proposed petition shall be submitted on the form provided by the municipal clerk in the application packet. The proposed petition shall:
a.set out verbatim the ordinance or resolution sought to be enacted or repealed by the petition;
b.have the required names, residence and mailing addresses, signatures, and dates of signatures of the initial contact persons and sponsors;
c.meet constitutional, charter and other legal requirements or restrictions;
d.include only a single subject; and
e.be enforceable as a matter of law or be clearly denominated as advisory only.
(AO No. 2002-162, § 1, 12-17-02)

Ten Qualified Voters

Printed Name	Residence Address	Mailing Address	*Identifier: Voter#, Social, or DOB	Signature	Date
Carolyn Williams	[redacted]	ANC AK 99516	[redacted]		12/28/16
Patricia M. Taylor-Coy		Same			12/28/16
Virginia Kohfi		[illegible]			12/28/16
Gwendolyn Monce		Same			12/28/16
Krystal Parker		1208 W 46th Ave Apt A			12/28/16
Rebecca Schmidt		Same			12/28/16