

Rejected 2/24/76

Requested by: Assemblyman Chie
Prepared by: Department of Law
1st Reading: January 20, 1976

MUNICIPALITY OF ANCHORAGE, ALASKA
AO NO. 6-76

AN ORDINANCE ESTABLISHING AN EQUAL RIGHTS COMMISSION AND ESTABLISHING ITS DUTIES.

THE ANCHORAGE ASSEMBLY HEREBY ORDAINS:

Section 1. Prohibition. The public policy of Anchorage is declared to be equal opportunity for all persons. The Anchorage Assembly finds that invidious discrimination in employment, housing, public accommodations, education and financing practices based upon race, color, sex, religion, national origin, marital status, age, or physical handicap adversely affects the welfare of the community. Accordingly such discrimination is prohibited, as herein provided.

Section 2. Establishment. Pursuant to the provisions of the Anchorage Municipal Charter there is established an Equal Rights Commission of nine (9) persons, which shall be known as the Anchorage Equal Rights Commission.

Section 3. Appointment. The Mayor shall appoint members of the Commission to three (3) year terms, subject to confirmation by the Assembly. Of those members first appointed, three shall be appointed for a term of one year, three for a term of two years, and three for a term of three years. A member chosen to fill a vacancy otherwise than by expiration of a term shall be appointed for the unexpired term of the member whom he/she is to succeed.

Section 4. Powers and Duties. The Equal Rights Commission may:

- A. Hold public hearings and issue orders under Section 8 of this ordinance and issue orders under Section 10 of this ordinance.
- B. Administer oaths and affirmations, certify its official acts, issue subpoenas, subpoenas duces tecum, and other legal process to compel the attendance of witnesses and the production of testimony, books, records, papers, accounts, documents or things in any inquiry, investigation, hearings or proceedings before the commission; the commission may petition Superior Court

of the State of Alaska, having jurisdiction, to enforce its subpoenas, subpoenas duces tecum and other legal process.

- C. Intervene in any court proceeding brought under this ordinance.
- D. Enter into agreement with counterpart agencies at all governmental levels to promote effective and efficient enforcement of the law.
- E. Grant relief described in Section 10 of this Ordinance.
- F. Develop programs designed to bring about the prevention and elimination of discrimination.
- G. Hire, subject to the approval of the Mayor, an Executive Director who shall serve at the pleasure of the Commission.
- H. Delegate to the Executive Director all powers and duties given it by this Ordinance, except the power to hold hearings, issue orders and hire the Executive Director.
- I. Adopt procedural and interpretive rules necessary to fulfill the intent of this ordinance.

Section 5. General.

A. Employment Practices

(1) Every person has the right to employment on an equal basis.

(2) With the exception of Section 5(D), no employment preference, by quota or otherwise, may be utilized which denies any applicant an equal opportunity, or discriminate against an applicant to the advantage of a specific class, category or characteristic.

(3) An employer has the right to hire employees solely on the basis of the applicant's qualifications, including experience, competence and suitability for the employment.

B. Sale or Rental of Real Property. The owner, lessor, manager, agent or either persons having the right to sell, lease, rent or advertise real property;

(1) may not refuse to sell, lease or rent the real property to a person because of race, religion, sex, color, national origin or marital status or physical handicap. Except, where such real property is dedicated solely as a development for the accomodation of the aged, retired, or the physically handicapped; or in the case of rooms or units of dwellings containing living quarters occupied, or intended to be occupied by no more than four (4) families living independently of each other, if the owner maintains and occupies one of such living quarters as his residence; or in accordance with Section 5(D) Religious Institutions.

(2) may not discriminate against a person because of race, religion, age, sex, color, national origin, marital status or physical handicap in a term, condition or privilege relating to the use, sale, lease, or rental of real property.

C. Public Accommodation. It is unlawful for a person, whether the owner, operator, or agent or employee of an owner or operator of a public accommodation;

(1) to 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, religion, age, sex, color, national origin, marital status or physical handicap.

(2) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies:

(A) that 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, religion, age, sex, color, national origin, marital status or physical handicap, or

(B) that the patronage or presence of a person belonging to a particular race, religion, age, sex, color, national origin, marital status, or physical handicap, is unwelcome, not desired, solicited, objectionable or unacceptable

(3) to make a written or oral inquiry concerning the race, religion, age, sex, color, national origin, marital status or physical handicap of an individual in connection with the solicitation, reservation, booking, sale, or dispensing of accommodation, advantage, facility, benefit, privilege, service or good.

D. Practice in Educational Institutions. Discrimination is lawful for a religious or denominational institution or organization or an organization operated for charitable or educational purposes which is operated, supervised or controlled by or in connection with a religious or denominational institution or organization limiting admission to, or giving preference in, its accommodations, advantages, facilities, benefits or services to persons of the same religion or denomination, or from making a selection of applicants or individuals that is reasonable calculated to promote the religious principles for which it is established or maintained. Such organizations, however, remain subject to the provisions of this ordinance with regard to race, color, age, national origin, sex, physical handicap or marital status.

It is unlawful for a person operating or assisting in the operation of an educational institution:

(1) to 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, religion, age, sex, color, national origin, marital status or physical handicap;

(2) to make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information concerning the race, religion, age, sex, color, national origin, marital status or physical handicap of an applicant for admission;

(3) to require or cause to be required that a photograph of an applicant for admission be submitted with an application for admission;

(4) to publish, circulate, or display, or cause to be published, circulated or displayed, a written, printed, oral or visual communication, advertisement, catalogue, or any other form of publicity relating to admission that expresses or indicates a preference, limitation, specification, or discrimination on account of the race, religion, age, sex, color, national origin, marital status or physical handicap of an applicant for admission;

(5) to establish, announce, or follow a policy of denial or limitation of education opportunities for members of a group on account of race, religion, age, sex, color, national origin, marital status or physical handicap;

(6) to use in the recruitment of potential applicants for admission a service or agency that discriminates against individuals on account of race, religion, age, sex, color, national origin, marital status and physical handicap.

E. Information and Records. It shall not be unlawful for a person in connection with employment, housing, financing, insurance, public accommodation, education or governmental service to make or keep records identifying race, religion, age, sex, color, national origin, marital status, physical handicap, or other background information if the purpose of the record is to comply with Federal or State laws or regulations in furtherance of a program designed to ensure compliance with this ordinance.

Nor shall any insurance company, financial institution or other commercial institution extending secured or unsecured credit upon receiving an application for a loan, financial assistance or credit be denied that information which is traditional and requisite for the exercise of sound business and economic judgment to the business transaction at hand.

F. Practices By the Municipality of Anchorage. It is unlawful for the Municipality of Anchorage or any public agency thereof:

(1) to refuse, withhold from or deny to a person any local, state or federal funds, services, goods, facilities, advantages or privileges because of race, religion, age, sex, color, national origin, marital status or physical handicap.

(2) to 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, religion, age, sex, color, national origin, marital status, or physical handicap is unwelcome, not desired or solicited.

Section 6. Complaint. A person who believes he/she is aggrieved by any discriminatory conduct prohibited by the Ordinance may file a written complaint with the Commission within 120 days from the date of the alleged discriminatory conduct, stating the name and address of the person alleged to have engaged in discriminatory conduct, and the particulars of the act. In like manner, the Executive Director may file a complaint when an alleged discriminatory act against an individual or group of individuals comes to his attention.

Section 7. Investigation and Conciliation. The Commission shall investigate promptly and impartially the matters set out in the filed complaint. If it determines that the allegations are supported by substantial evidence, it shall immediately attempt to eliminate the discriminatory act or practice by conference, persuasion and conciliation.

Section 8. Public Hearing. If the Commission determines that the efforts to eliminate the alleged discrimination are unsuccessful, the Commission shall serve written notice together with a copy of the complaint as it may be amended, requiring, the person, employer, labor organization or employment agency charged in the complaint to answer the allegations of the complaint at a public hearing before the Commission. The time and place of the public hearing will be specified in the notice. The case in support of the complainant shall be presented before the Commission by the Executive Director or his/her designee, provided that such designee does not concurrently represent the complainant. The complainant may be represented by counsel.

The person charged in the complaint may file a written answer to the complaint and may appear at the hearing in person or by counsel and submit testimony. The Commission is bound by the strict rules of evidence prevailing in courts of law and shall exclude evidence not relevant to the merits of the proceeding. The testimony taken at the hearing shall be under oath or affirmation and shall be transcribed. Any person may obtain a transcript upon payment of reasonable costs thereof.

Section 9. Injunctive Relief, Temporary Restraining Order. At any time after a complaint is filed under this order, the Commission may file a petition in any Superior Court of the State of Alaska having jurisdiction seeking temporary or permanent injunctive relief. This includes the granting of a temporary restraining order not to exceed 10 days in duration, unless a longer period is agreed to by the parties, and the granting of preliminary and/or permanent injunction following a Court hearing.

Section 10. Order.

A. At the completion of the hearing, if the Commission finds that a person against whom a complaint was filed has engaged in discriminatory conduct it shall order him to refrain from engaging in discriminatory conduct. The order shall include findings of fact, and may prescribe conditions on the respondent's future conduct relevant to the type of discrimination. In a case involving discrimination in:

(1) employment, the Commission may order any equitable relief including but not limited to the hiring, reinstatement or upgrading of an employee or group of employees with or without back pay, restoration to membership in a labor organization, or his admission to or participation in an apprenticeship training program, on-the-job training program, or other retraining program.

(2) housing, the Commission may order any equitable relief, including but not limited to the sale, lease or rental of the housing accommodation to the aggrieved person if it is still available, or the sale, lease or rental of the next vacancy in a like accommodation, owned by the person against whom the complaint was filed;

(3) public accommodations, the Commission may order any equitable relief including but not limited to admission to or service in a place of public accommodation.

(4) financial institutions, the Commission makes its recommendations and may order a re-review of the application, or in an impasse, may provide the necessary co-signer or the guarantor of credit.

(5) educational institutions, the Commission may order any equitable relief, including but not limited to admission to the institution or admission to the program or programs of the institution.

B. The Commission may monitor compliance with orders. The order may require a report or reports to be made to the Commission on the manner of compliance.

C. If the Commission finds that a person against whom a complaint was filed has not engaged in the discriminatory conduct alleged in the complaint, it shall issue and cause to be served on the complainant an order dismissing the complaint.

D. A copy of all orders issued following public hearing shall be filed with the Municipal Attorney.

Section 11. Retaliation, Coercion, Aiding, Abetting and Inciting. It shall be unlawful for a person to discharge, expel, evict, retaliate or to otherwise discriminate against a person because he/she has filed a complaint, testified or assisted in a proceeding under this ordinance. It is unlawful for a person to aid, abet, incite, compel, or coerce the doing of an act forbidden under this ordinance or to attempt to do so.

Section 12. Penalty. A person who wilfully resists, prevents, impedes or interferes with the Commission or any of its authorized representatives because of or in the performance of duty under this ordinance or who or which wilfully violates an order of the Commission, if convicted by a court of competent jurisdiction and found guilty is guilty of a misdemeanor punishable by a fine of not more than \$500, or by imprisonment in a jail for not more than 30 days, or by both. The Commission is fully accountable and liable for any actions it has undertaken, which are contrary to this ordinance, or are capricious, irresponsible or an invidious discrimination against a person.

Section 13. Judicial Review and Enforcement.

A. A complainant, or person against whom a complaint is filed or other person aggrieved by an order of the Commission, may obtain judicial review of the order in accordance with AS 44.62.560 - 44.62.570.

B. The Commission may obtain a Court order for the enforcement of any of its orders by filing a complaint with the Superior Court in the Third Judicial District.

Section 14. Effect of Compliance With Order. Immediate and continuing compliance with all the terms of a Commission order is a bar to prosecution for the particular instances of discriminatory conduct described in the accusation filed before the Commission.

Section 15. Legal Assistance. Legal assistance to the Commission shall be provided by the Municipal Attorney. The Commission shall employ temporary legal counsel in any proceeding wherein the Municipality is the respondent.

Section 16. Definitions. As used in this Ordinance.

(1) "Age" as used in public accommodations section of this ordinance, is not intended to conflict with A.S. 04.15.060 Purchase by Minors, or other regulations concerning the sale of liquor to minors;

As used in the employment section of this ordinance, is not intended to conflict with Department of Labor Alaska Child Labor Laws (A.S. 23.10.325 - 23.10.370)

(2) "Blockbusting" means any discriminatory practice by real estate brokers, real estate salesmen or employees or agents of a broker or another individual corporation, partnership or organization for the purpose of inducing a real estate transaction from which any such person or its stockholders or members may benefit financially, to represent directly or indirectly that a change has occurred or will or may occur from a composition with respect to race, religion, color or national origin of the owners or occupants of the block, neighborhood or area in which the real property is located, and to represent directly or indirectly that this change may or will result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior or decline in the quality of the schools or other facilities.

(3) "Commission" means the Anchorage Equal Rights Commission.

(4) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial or any other act or practice or differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, age, sex, marital status or physical handicap, or the aiding, abetting, inciting, coercing or compelling thereof.

(5) "Educational Institutions" means any nursery, kindergarten, elementary or secondary school, academy, college university, extension course or nursing, secretarial business vocational, technical, trade, professional school, or day care centers.

(6) "Employee" means an individual employed by a person, but does not include an individual employed in the domestic service of any person.

(7) "Employer" means an employer, public or private, of one or more persons.

(8) "Employment Agency" means any person undertaking to procure employees or to procure for employees opportunities to work.

(9) "Financial Institutions" means commercial banks, trust companies, mutual savings banks, cooperative banks, homestead associations, credit unions, bonding companies, surety companies, other commercial institutions which extends secured or unsecured credit [OR OFFERS INSURANCE].

(10) "Labor Organization" includes any organization which is constituted for the purpose, in whole or in part, of collective bargaining or in dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employees.

(11) "Marital Status" means any differential treatment because of a person's marital status or change in marital status. This includes differential treatment shown towards a person because he/she is not married, a person because he/she is married, a person because he/she is widowed or divorced, a person because she is pregnant and unmarried, or a person because she is a parent and unmarried.

(12) "National Origin" includes ancestry, person not citizens, their descendants, persons naturalized, and their descendants.

(13) "Person" means one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, employees, employers, employment agencies, labor organizations, joint apprenticeship committees or other legal or commercial entity.

(14) "Physical Handicap" means any physical disability infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness, including diabetes, epilepsy, and includes any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, or other remedial appliance or device.

(15) "Public Accommodation" means any place in or through which any business or professional activity is conducted that is open to, accepts or solicits the patronage of or caters or offers goods or services to the general public. This includes but is not limited to a public inn, restaurant, eating house, day care center, hotel, motel, soda fountain, soft drink parlor, tavern, night club, liquor establishment, roadhouse, place where food or spiritous or malt liquors are sold for consumption, trailer park, resort, campground, mobile home, barber shop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company and all other public amusement and business establishments, subject only to the conditions and limitations established by law and applicable alike to all persons.

(16) "Real Property" means a housing accommodation, unimproved property, a building or a portion of a building whether constructed or to be constructed, structures, real estate, lands, tenements, leaseholds, interest in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein, a mobile home, which is or will be used as sleeping quarters of its occupants, or a trailer park.

(17) "Sex Discrimination" means differential or preferential treatment shown towards a person because of one's sex, pregnancy or parenthood.

Section 17. Severability. If any clause, sentence, pragraph, or part of this act, or the application thereof, to any person of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of this Ordinance.

Section 18. Effective Date. This Ordinance is effective immediately upon adoption.

PASSED AND APPROVED BY THE ANCHORAGE ASSEMBLY this _____ day of _____, 1976.

Chairman

ATTEST:

Municipal Clerk

APPROVED this _____ day of _____, 1976.

Mayor

Municipality
of
Anchorage



ANCHORAGE ASSEMBLY

POUCH 6-650
ANCHORAGE, ALASKA 99502
(907) 279-8686

GEORGE M. SULLIVAN,
MAYOR

January 20, 1976

TO: Members of the Municipal Assembly

Introduction of Ordinance AO-6-76 Establishing an Equal Rights Commission and its Duties.

The equal opportunity rights of the Anchorage Community are adequately protected by existing Federal and State statutes. There is no need to rediscover the subject of civil rights in a municipal ordinance. However the unification charter mandates that an ordinance creating an Equal Rights Commission shall be in effect.

The insertion in an ordinance of a sexual preference delineation does not begin to respond to those other delineations, which by their absence in the ordinance implies a denial of equal opportunity rights. For example, the right to employment of a felon who has paid his debt to society; the right of a former prostitute or gambler now seeking employment; the right of a former inmate of an insane asylum. Suffice to say, the list of delineations for inclusion in the ordinance could be unending. Setting aside the morality issue, which cannot be legislated within an ordinance; all these persons are entitled to an equal opportunity right, and section one of the ordinance adequately gives this right to every person with no need for further delineation.

Using the original ordinance that was reviewed and approved by the assembly, the following changes which appear as underlined have been incorporated in the attached redraft.

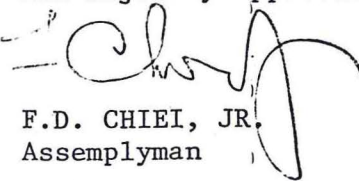
- * All persons are entitled the right to employment.
- * No employment preference is given to any group or class.
- * An employer has the right to solely employ based upon qualifications.
- * Information required and basic to a business transaction cannot be denied.
- * An owner of a four plex dwelling or less, can sell, rent or lease as he prefers.
- * The aged, retired and physically handicapped can have housing privileges exclusive to their class.
- * The Equal Rights Commission is bound by the court's rules of evidence, and is fully accountable and liable for its actions.



* The definition of an employee excludes a domestic employee.

It is my opinion that these changes will remove all the objections to the ordinance, make it a meaningful and workable ordinance that does not discriminate against any one person or class and extends the equal opportunity and the right to employment to every person on an equal basis.

This redraft has been reviewed by a cross section of my constituency and has majority approval.



F.D. CHIEH, JR.
Assembleyman