

MUNICIPALITY OF ANCHORAGE, ALASKA

AO NO. 12 - 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.

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. A member of the Commission shall be eligible for reappointment.

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

- A. Hold public hearings and issue orders under Section 7 of this ordinance and issue orders under Section 9 of this ordinance.
- B. Administer oaths and affirmations, certify its official acts, issue subpoenas, subpoenaes 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 proceeding 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. 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 6. 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 7. 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 complainant has the power reasonably and fairly to amend the complaint and the respondent has the power reasonably and fairly to amend his answer at any time up to and including the time of hearing. The Commission is not bound by the strict rules of evidence prevailing in courts of law but 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 8. Injunctive Relief, Temporary Restraining Order. At any time after a complaint is filed under this Ordinance or in cases of non-compliance with a lawful Commission 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 9. 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 restoration to membership in a place of public accommodation, or admission to or service in a place of public accommodation.

(4) financial institutions, the Commission may order any equitable relief, including but not limited to the issuance of a credit card to a person, the approval of a loan to a person, or the issuance of insurance to a person.

(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. In addition to the above remedy the Commission may order payment of reasonable expenses when the Commission determines the allowance is appropriate.

C. In addition to the above remedy the Commission may levy a civil penalty not to exceed \$1,000 for violation of the Commission order. Such payments will be made to the Commission for deposit in the Anchorage Municipality's General Fund.

D. 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.

E. 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.

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

Section 10. 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 11. 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 and is 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.

Section 12. 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 13. 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 14. Legal Assistance. Legal assistance to the Commission shall be provided by the Municipal Attorney. The Municipal Attorney may authorize the Commission to obtain temporary legal assistance. In any proceeding wherein the Municipality is the respondent, the Commission shall employ temporary legal counsel.

Section 15. Exemptions.

(a) Discrimination in employment is permissible if the reason for the discrimination is a bona fide occupational qualification.

(b) Discrimination on the basis of religion is permissible for religious or denominational institutions or organizations where the discrimination is reasonably calculated to promote the religious principles of the institution or organization.

(c) Nothing in this ordinance may be construed to bar collection and use of information normal and necessary for determining credit worthiness and insurability.

Section 16. Definitions. As used in this Ordinance.

(1) "Age" as used in the public accommodations section of this ordinance, is not intended to conflict with AS 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) "Commission" means the Anchorage Equal Rights Commission.

(3) "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.

(4) "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.

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

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

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

(8) "Financial Institutions" means commercial banks, trust companies, mutual savings banks, cooperative banks, home-stead associations, credit unions, bonding companies, surety companies, or other commercial institutions which extend secured or unsecured credit or offers insurance.

(9) "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.

(10) "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 he/she is a parent and unmarried, or a person because she is pregnant and unmarried.

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

(12) "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.

(13) "Physical Handicap" means any physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defects, 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.

(14) "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.

(15) "Real Property" means a housing accommodation, unimproved property, a building or a portion of a building whether constructed or to be constructed, structure, 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.

(16) "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, paragraph, or part of this act, or the application thereof, to any person of competent jurisdiction is judged 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.

Section 19. All ordinances or portions of ordinances in conflict herewith are hereby repealed.

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

Chairman

ATTEST:

Municipal Clerk

APPROVED this _____ day of _____, 1976.

Mayor