

Non-Discrimination Ordinance Template

[THIS DOCUMENT WAS PREPARED BY THE MICHIGAN CIVIL RIGHTS COMMISSION AND IS INTENDED AS A TEMPLATE THAT MAY, IN THEIR OWN JUDGMENT, BE USED BY LOCAL GOVERNMENT BODIES SEEKING TO ADOPT A COMPREHENSIVE NON-DISCRIMINATION ORDINANCE IMPACTING ALL PERSONS LIVING, VISITING, AND WORKING IN THEIR JURISDICTION. IT IS A GUIDE AND IT IS ANTICIPATED THAT EACH SUCH BODY WILL ADOPT OR AMEND THE TEMPLATE'S LANGUAGE AS APPROPRIATE TO FIT THE JURISDICTION'S SPECIFIC NEEDS, INTENT AND FORMATTING.]

Purpose

It is the policy of the (City¹) to exercise its police power in order to ensure public safety, public health, and a person's general welfare. It is the intent of the (City) that no individual be denied equal protection of the laws, nor shall an individual be denied the enjoyment of his or her civil rights or be discriminated against because of age, color, disability, education, familial status, gender expression, gender identity, height, marital status, national origin, race, religion, sex, sexual orientation, or weight.

Definitions

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

Discrimination or discriminate shall mean without limitation, any act which, because of age, color, disability, education, familial status, gender expression², gender identity, height, marital status, national origin, race, religion, sex, sexual orientation, or weight results in the unequal treatment or separation of any person, or denies, prevents, limits, adversely affect the benefit or enjoyment of any person, of employment, ownership, or occupancy of real property, or public accommodations and public services.

Sexual Orientation shall mean, emotional, romantic, and/or sexual attractions, or the absence thereof, to people. Sexual orientation also refers to a person's sense of identity based on those attractions, related behaviors, and membership in a community of others who share those attractions.

¹ (City) is used for the purposes of the template, but Township, County or other entity should be substituted as appropriate.

² There are cases holding that "gender expression" is included, and thus protected, by the inclusion of "gender." If this line of cases is sufficiently accepted it may eliminate the legal necessity of adding gender expression. It is none the less included in this template because, it is not entirely clear whether all gender expression will be seen as included, and because the goal of this legislation is not to catch people discriminating, but to provide them with clear and sufficient notice as to prevent it.

Gender Expression shall be defined as, a gender-based appearance, expression, or behavior of an individual, regardless of the individual's assigned sex at birth.

Gender Identity shall be defined as, an individual's internal sense of their own sex and a defining component of sex.

Prohibition

No person or persons shall discriminate against any person or persons within the *(City)* regarding employment, housing, public accommodations, and public services on the basis of age, color, disability, education, familial status, gender expression, gender identity, height, marital status, national origin, race, religion, sex, sexual orientation, or weight. To the extent that this ordinance confers benefits on any classes protected from discrimination under this ordinance, it shall not be construed to be preempted by state or federal statute.

Exceptions³

This ordinance shall not apply:

- 1) to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the private club or establishment are made available to the customers or patrons of another establishment that is a place of public accommodation or is licensed by the state under Act No. 8 of the Public Act of 1933, being MCL §§ 436.1—436.58, the Michigan Liquor Control Act, as amended.
- 2) to a religious educational institution or an educational institution operated, supervised, or controlled by a religious institution or organization which limits admission or gives preference to an applicant of the same religion.
- 3) to the rental of housing accommodations in a building which contains housing accommodations for not more than two families living independently of each other if the owner or a member of the owner's immediate family resides in one of the housing accommodations, or to the rental of a room or rooms in a single-family dwelling by a person if the lessor or a member of the lessor's immediate family resides in the dwelling.
- 4) to the rental of housing accommodations for not more than (*Number*)⁴ months by the owner or lessor where it was occupied by him/her and maintained as his/her home for at

³ Common acceptations are provided in this template, though the decision to include any or all of them is at the discretion of the enacting body.

⁴ (*Number*) is used for the purposes of this template. This provision is added to some ordinances in order to create an exception that applies when an owner is temporarily renting a home while on a vacation, sabbatical or work assignment for a period of up to 12 months.

- least three months immediately preceding occupancy by the tenant and is temporarily vacated while maintaining legal residence.
- 5) with respect to age only, to the sale, rental or lease of housing accommodations meeting the requirements of federal, state or local housing programs for senior citizens, or accommodations otherwise intended, advertised, designed or operated, bona fide, for the purpose of providing housing accommodations for persons 50 years of age or older.
- 6) with respect to gender only, to a private educational institution which now or hereafter provides an education to only persons of one gender.
- 7) A governmental exemption shall not apply to any action by a governmental entity or agency where a person's qualification is expressly limited by statute, charter, ordinance or policy as otherwise provided at law.

Complaint Procedures

- 1) If any individual has a grievance alleging a violation of this chapter, he/she has 180 calendar days from the date of the individual's knowledge of the allegedly discriminatory action or 180 calendar days from the date when the individual should have known of the alleged discriminatory action to file a complaint with the (City)'s Human Rights Commission (HRC) ⁵. If an individual fails to file a complaint alleging a violation of this chapter within the specified time frame, the complaint will not be considered by the (HRC).
- 2) The complaint should be made in writing to the *(HRC)*. The complaint may be filed in person, by email, or by mail. The complaint must contain information about the alleged discrimination, such as name, address, phone number of the complainant and location, date and description of the alleged violation of this chapter.
- 3) Upon receipt, the (HRC)will review the complaint, provide a copy of the complaint to the (City) Attorney's Office, communicate with the complainant, and take appropriate action with respect to the matter, including, but not limited to:
 - A) Referring the complainant to other local, state or federal entities for investigation and remedy.
 - B) Informally mediating the matter between the involved parties.
 - C) Referring the complaint to the *(City)* Attorney for further investigation and action pursuant to this chapter.
 - D) Dismissing the complaint, after review with the *(City)* Attorney, if the allegations do not constitute a violation of this chapter.
 - E) The (HRC) will take action on the complaint within 90 days of receipt of the complaint. If additional time is necessary, the (HRC) will notify the complainant of the need for additional time. All communications with the complainant regarding

03/23/15 - Page 3 of 5

⁵ (*HRC*) is used for the purposes of this template. This body may be known by a different name, (e.g. Civil Rights Agency, Equal Opportunity Office), or this authority could be given to another entity all together, (e.g. a city attorney directly) and the correct body title should be substituted.

- actions taken or additional time necessary will be in writing, with a copy to the (City) Attorney.
- F) The *(City)* Attorney will notify the *(HRC)* in writing of actions taken by the *(City)* Attorney's Office on complaints referred to that office by the HRC.
- G) All complaints received by the *(HRC)* and responses from the *(HRC)* will be retained by the *(City)* of for at least 3 years.
- H) The (HRC) will provide an annual report to (City) Council regarding the complaints received and actions taken.
- I) No individual shall provide false information to any authorized individual investigating a complaint regarding a violation of this chapter.
- J) For an investigation, the (City) Attorney may request a person to produce books, papers, records or other documents which may be relevant to a violation or alleged violation of this chapter. If said person does not comply with such request, the (City) Attorney may apply to the (City)'s County Circuit Court for an order requiring production of said materials.

Prosecution

Prosecution for violation of this chapter may be initiated by the *(City)* Attorney on behalf of the affected individual on the basis of an investigation initiated by a complaint to *(HRC)* and may act based on evidence gathered by or findings of the *(HRC)*. ⁶

Violations, Fines, and Penalties

Any person in violation of any of the provisions of this chapter shall be responsible for a municipal civil infraction, and upon a determination or admission of responsibility shall be subject to a civil fine of not more than \$500.00⁷, costs of prosecution and such other costs, damages, expenses, sanctions, and remedies as authorized by law, including but not limited to, the Revised Judicature Act, and specifically MCL 600.8302, as amended.

Private Civil Action

 To the extent allowed by law, an individual who is the victim of discriminatory action in violation of this chapter may bring a civil action for appropriate injunctive relief or damages or both against the person(s) who acted in violation of this chapter.

⁶ The actual process adopted by various jurisdictions will vary significantly, but must include the receipt of a complaint, the impartial investigation of the complaint, a decision based upon the investigation that there is legally sufficient evidence to proceed, and an adversarial hearing on the matter where the evidence is presented and a decision rendered.

⁷ The amount of \$500 is often used, but is subject to the discretion of the enacting jurisdiction.

- 2) As used in subsection (1), "damages" means damages for injury or loss caused by each violation of this chapter, including reasonable attorney fees.
- 3) Private actions and remedies under this section shall be in addition to any actions for violations which the (*City*) may take

Interpretation

This Non-Discrimination ordinance shall not be read to prohibit or interfere with a person's, or religious institution's, free exercise of religion as protected by the First Amendment to the United States Constitution and Article 1, Section 4, of the Michigan Constitution.