

City of Kalamazoo, MI
Thursday, May 15, 2014

Chapter 18. COMMUNITY RELATIONS; DISCRIMINATION

[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in article histories. Amendments noted where applicable.]

STATUTORY REFERENCES

Elliott-Larsen Civil Rights Act — MCLA § 37.2101 et seq.

Revised Judicature Act of 1961 — See MCLA § 600.101 et seq.

Article I. Community Relations Advisory Board

[Adopted 9-12-1977 by Ord. No. 1123; amended in its entirety 6-21-2010 by Ord. No. 1868]

§ 18-1. General policy.

- A. It is the desire of the City of Kalamazoo to secure the blessings of liberty to its citizens and to provide equal freedom to all who peaceably pursue their just aspirations.
- B. It is the goal of this City to encourage the elimination of practices, procedures and policies which lead to misunderstandings, misapprehensions, and lack of communication and cooperation among our citizens and with public officials which may hinder or restrict the enjoyment of liberty and freedom by all citizens of and visitors to our City. The City recognizes this goal has not been fully achieved for all members of our community and acknowledges the need for continued special attention for those groups which may not have become a part of the mainstream of American life. Such groups include, but are not necessarily limited to, racial and ethnic minorities; persons with a disability; senior citizens; young people, particularly teenagers; gay, lesbian, bisexual and transgender individuals; women; and prior offenders of the law.

§ 18-2. Community Relations Advisory Board creation; composition.

- A. To implement the general policy and goal set forth in this article, the City Commission may from time to time, as it determines the need exists, create and appoint an ad hoc Community Relations Advisory Board.
- B. The Board shall consist of up to nine voting members and two ex officio members who shall have no vote, but who may otherwise participate in any meeting of the Board.

§ 18-3. Appointment and terms of Board members; filling of

vacancies; termination of appointments.

- A. Members of the Board shall be appointed by the City Commission for a term set by the City Commission which shall not exceed six months, unless extended by action of the City Commission. Vacancies may be filled by the same appointment procedure for the remainder of an unexpired term. Members to the Board may be appointed who are not residents of the City when there is a valid reason for such appointment, such as the member works in the City, owns property in the City, or has special expertise to carry out the Board's duties and responsibilities.
- B. The ex officio Board members shall be appointed by the Mayor and approved by the City Commission; one member shall be a City Commissioner and the other member shall be a City officer or employee recommended by the City Manager, but who shall not be a City Commissioner or the City Manager.
- C. Effective June 30, 2010, the appointments and terms of all persons then currently serving as members of the Community Relations Advisory Board shall expire.

§ 18-4. Election of Board officers.

The Board shall elect a Chairperson to conduct its meetings and as it may desire, a Vice Chairperson to act in the absence of the Chairperson, from its members.

§ 18-5. Secretary to Board; administrative support.

The City Manager shall designate someone other than himself to serve as Secretary to the Board and shall provide such administrative support as may be required.

§ 18-6. Board subject to state law.

Meetings of the Board shall be conducted in compliance with the Michigan Open Meetings Act, MCLA § 15.261 et seq. and its records shall be available to the public under the Michigan Freedom of Information Act, MCLA § 15.231, et seq.

§ 18-7. Purpose of Board.

The purpose of the Board shall be to encourage constructive communication among our citizens across racial, ethnic and socioeconomic lines and between citizens and with public officials so as to promote harmonious and productive relationships within the community.

§ 18-8. Duties and responsibilities of Board.

The duties of the Board shall be of an advisory nature only to the City Commission and the City Manager. Such duties and responsibilities shall include the following:

- A. To conduct a study and analysis of conditions, practices, attitudes and other factors contributing to or giving rise to misunderstandings, misapprehensions, failures of communication and incidents of noncooperation among the citizenry and with public officials.
- B. To prepare for the City Commission or City Manager, as may be appropriate, factual and analytical reports and recommendations as to corrective or ameliorating actions the Board may deem appropriate in furtherance of the policy and goal as stated in this article. Reports should include a review and analysis of the effectiveness of prior actions, projects, or programs to include, where appropriate, recommendations with regard to current City practices, programs and projects.

- C. Reports should include a review and analysis of the effectiveness of prior actions, projects, or programs to include, where appropriate, recommendations with regard to current City practices, programs, and projects.

§ 18-9. through § 18-16. (Reserved)

Article II. Discrimination Prohibited

[Derived from Adm. Code §§ A228.1 through A228.10; amended in its entirety 6-29-2009 by Ord. No. 1856 *Editor's Note: This ordinance was approved at referendum 11-4-2009.*]

§ 18-17. Intent, purpose and construction.

- A. It is the intent of the City of Kalamazoo that no person be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his or her civil rights or be discriminated against because of his or her actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity.
- B. The prohibitions against discrimination as provided for in this article shall not be deemed preempted by federal or state law, but are intended to supplement state and federal civil rights law prohibiting discrimination in the areas of employment, public accommodations, and housing; provided, however, this article shall be construed and applied in a manner consistent with First Amendment jurisprudence regarding the freedom of speech and exercise of religion.
- C. Nothing in this article shall require preferential treatment of any person or group on the basis of sexual orientation or gender identity.

§ 18-18. Definitions.

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

AGE

Chronological age.

CITY MANAGER

The City Manager of the City of Kalamazoo or his or her designee.

CONTRACTOR

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

DISCRIMINATE

To make a decision, offer to make a decision or refrain from making a decision based in whole or in part on the actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity of another person.

- A. Discrimination based on sex includes sexual harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

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

housing.

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

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

B. Discrimination based on actual or perceived physical or mental limitation includes discrimination because of the use by an individual of adaptive devices or aids.

EMPLOYER

Any person employing one or more persons.

EMPLOYMENT AGENCY

A person who undertakes to procure employees for an employer or procures opportunities for individuals to be employed by an employer.

FAMILY

Includes either of the following:

FAMILY STATUS

The state of being in a family.

A. An individual who is pregnant; or

B. Two or more individuals related by blood within three degrees of consanguinity, marriage, adoption, in a foster care relationship or legal custody relationship.

GENDER IDENTITY

A person's actual or perceived gender, including a person's self-image, appearance, expression, or behavior, whether or not that self-image, appearance, expression, or behavior is different from that traditionally associated with the person's biological sex as assigned at birth as being either female or male.

HOUSING FACILITY

Any dwelling unit or facility used or intended or designed to be used as the home, domicile or residence of one or more persons, including, but not limited to, a house, apartment, rooming house, housing cooperative, hotel, motel, tourist home, retirement home or nursing home.

LABOR ORGANIZATION

An organization of any kind or structure in which employees participate or are members and which exists for the purposes, in whole or part, of dealing with employers concerning the terms and conditions of employment of its participants or members, whether or not such organization is subordinate to or affiliated with a national or international labor organization.

MARITAL STATUS

The state of being married, never married, divorced, or widowed.

PERCEIVED

Refers to the perception of the person who acts, and not to the perception of the person for or against whom the action is taken.

PHYSICAL OR MENTAL DISABILITY

A determinable physical or mental characteristic resulting from disease, injury, congenital condition of birth, or functional disorder and is unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion; or unrelated to one's ability to acquire, rent and maintain property; or unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation "Physical or mental disability" does not include any condition caused by

the current illegal use of a controlled substance or the use of alcohol liquor by an individual.

PLACE OF PUBLIC ACCOMMODATION

An educational, governmental, health, entertainment, cultural, recreational, refreshment, transportation, financial institution, business or facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

RELIGIOUS ORGANIZATION

An organization, church, group, or body of communicants that is organized not for pecuniary profit that regularly gathers for worship and religious purposes, and includes a religious-based private school that is not organized for pecuniary profit.

SEXUAL ORIENTATION

Male or female homosexuality, heterosexuality or bisexuality, whether by orientation or practice. Sexual orientation does not include the physical or sexual attraction to a minor by an adult.

§ 18-19. Discriminatory housing practices.

Except as otherwise provided in this article:

- A. No person shall discriminate in leasing, selling or otherwise making available any housing facilities.
- B. No person shall discriminate in the terms, conditions, maintenance or repair in providing any housing facility.
- C. No person shall refuse to lend money for the purchase or repair of any real property or insure any real property solely because of the location in the City of such real property.
- D. No person shall promote real estate transactions by representing that changes are occurring or will occur in an area with respect to race, religion or national origin.
- E. No person shall place a sign or other display on any real property which indicates that the property is for sale or has been sold when it is not for sale or has not recently been sold.

§ 18-20. Discriminatory public accommodation practices.

- A. Except as otherwise provided in this article, no person shall discriminate in making available full and equal access to all goods, services, activities, privileges, and accommodations of any place of public accommodation.
- B. Nothing in this article permits or requires access to any place of public accommodation for the purpose or intent of engaging in criminal conduct.
- C. Nothing in this article shall require the construction or provision of unisex, single-user restrooms, changing rooms, locker rooms, or shower facilities.

§ 18-21. Discriminatory employment practices.

Except as otherwise provided in this article:

- A. No employer shall discriminate in the employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any person.
- B. No labor organization shall discriminate in limiting membership, conditions of membership, or termination of membership of any person in any labor union or apprenticeship program.
- C. No employment agency shall discriminate in the procurement or recruitment of any person for possible employment with an employer.

§ 18-22. Other prohibited practices.

- A. No person shall adopt, enforce or employ any policy or requirement, or publish, post or broadcast any advertisement, sign or notice which discriminates or indicates discrimination in providing housing, employment or public accommodations.
- B. No person shall discriminate in the publication or distribution of advertising material, information or solicitation regarding housing, employment or public accommodations.
- C. No agent, broker, labor organization, employment agency or any other intermediary shall discriminate in making referrals, listings or providing information with regard to housing, employment or public accommodations. A report of the conviction of any such person for a violation of this article shall be made to the applicable licensing or regulatory agency for such person or business.
- D. No person shall coerce, threaten or retaliate against a person for making a complaint or assisting in the investigation regarding a violation or alleged violation of this article, nor require, request, conspire with, assist or coerce another person to retaliate against a person for making a complaint or assisting in an investigation.
- E. No person shall conspire with, assist, coerce or request another person to discriminate in any manner prohibited by this article.

§ 18-23. Nondiscrimination by City contractors.

- A. All contractors proposing to do business with the City of Kalamazoo shall satisfy the nondiscrimination administrative policy adopted by the City Manager in accordance with the guidelines of this section. All contractors shall receive approval from the City Manager prior to entering into a contract with the City, unless specifically exempted by administrative policy.
- B. A contractor shall, as a condition of being deemed a responsible bidder, at the time of its submission to the City in responding to an invitation for bids or request for proposals, certify in writing that it is in compliance with the provisions of this article.
- C. All City contracts shall provide further that breach of the obligations not to discriminate shall be a material breach of the contract.
- D. In addition, the contractor shall be liable for any costs or expenses incurred by the City in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under the contract.

§ 18-24. Discriminatory effects.

No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to actual or perceived race, color, religion, national origin, sex, age, height, weight, family status, sexual orientation, marital status, physical or mental disability, or gender identify for a person to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a bona fide business necessity does not arise due to a mere inconvenience or because of suspected or actual objection to such a person by neighbors, customers, or other persons but shall require a demonstration that the policy or requirement is reasonably necessary to the normal operation of the person's business.

§ 18-25. Exceptions.

Notwithstanding anything contained in this article, the following practices shall not be violations of this article:

- A. For a religious organization to restrict the occupancy of any of its housing facilities or

accommodations which are operated as a direct part of religious activities to persons of the denomination involved or to restrict employment opportunities for officers, religious instructors and clergy to persons of that denomination. It is also permissible for a religious organization to restrict employment opportunities, educational facilities, housing facilities, and homeless shelters or dormitories that are operated as a direct part of its religious activities to persons who are members of or who conform to the moral tenets of that religious organization.

- B. For the owner of an owner-occupied, one-family or two-family dwelling, or a housing facility or public accommodation facility, respectively, devoted entirely to the housing and accommodation of individuals of one sex, to restrict occupancy and use on the basis of sex.
- C. To limit occupancy in a housing project or to provide public accommodations or employment privileges or assistance to persons of low income, persons over 55 years of age or disabled persons.
- D. To engage in a bona fide effort to establish an affirmative action program to improve opportunities in employment for minorities and women consistent with applicable state and federal law.
- E. To discriminate based on a person's age when such discrimination is required by state, federal, or local law.
- F. To refuse to enter into a contract with an unemancipated minor.
- G. To refuse to admit to a place of public accommodation serving alcoholic beverages a person under the legal age for purchasing alcoholic beverages.
- H. To refuse to admit persons under 18 years of age to a business providing entertainment or selling literature which the operator of said business deems unsuitable for minors.
- I. For an educational institution to limit the use of its facilities to those affiliated with such institution.
- J. To provide discounts on products or service to students, or on the basis of age.
- K. To discriminate in any arrangement for the shared ownership, lease or residency of a dwelling unit.
- L. For a governmental institution to restrict any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to federal and state laws and regulations.
- M. To restrict participation in an instructional program, athletic event or on an athletic team on the basis of age, sex, height, or weight.
- N. To restrict membership in a private club that is not open to the public except to the extent that private clubs which permit members to invite guests on the premises are not exempted as it concerns a member's guest.
- O. To the employment of an individual by one's family.
- P. To the use of marital status or family status limitations in a health or pension plan if such limitations conform to federal and state laws and regulations.
- Q. To the rental of housing facilities in a building which contains dwelling units for not more than two families living independently of each other if the owner of the building or a member of the owner's family resides in one of the dwelling units, or to the rental of a room or rooms in a single-family dwelling by an individual if the lessor or a member of the lessor's family resides in the dwelling.

§ 18-26. Information and investigation.

- A. Any person claiming a violation of this article shall file a signed, written complaint with the City

Manager setting forth the details, including the names, dates, witnesses and other factual matters relevant to the claim, within 180 days of the incident forming the basis of the complaint.

- B. No person shall provide false information to any authorized employee investigating a complaint regarding a violation of this article.
- C. In the course of the investigation, the City Manager may request a person to produce books, papers, records or other documents which may be relevant to a violation or alleged violation of this article. If said person does not comply with such request, the City Attorney may apply to the Kalamazoo County Circuit Court for an order requiring production of said materials.
- D. Within 30 days of a written complaint being filed, the City Manager shall undertake an investigation of any complaint alleging a violation of this article not currently recognized or proscribed by Michigan or federal anti-discrimination statutes, and cause all other complaints to be referred to an appropriate state or federal agency for review. After the completion of an investigation, the City Manager shall give written notice of the results of the investigation to the person who filed the complaint and the person accused of the violation. If the investigation establishes that a violation of this article occurred, the City Manager shall attempt to resolve the matter by conciliation and persuasion or refer the complaint to the City Attorney for prosecution in a court of competent jurisdiction.

§ 18-27. Conciliation agreements.

In cases involving alleged violations of this article, the City Manager may enter into agreements whereby persons agree to methods of terminating discrimination or to reverse the effects of past discrimination. Violations of such agreements shall be violations of this article.

§ 18-28. Injunctions.

The City Attorney may commence a civil action to obtain injunctive relief to prevent discrimination prohibited by this article, to reverse the effects of such discrimination or to enforce a conciliation agreement.

§ 18-29. Prosecution.

- A. Prosecution for violation of this article may be initiated by complaint of the affected person on the basis of a violation of a conciliation agreement or by the City Manager on the basis of an investigation undertaken by the City Manager.
- B. Violation of this article shall be prosecuted by the City Attorney as a municipal civil infraction pursuant to the provisions of the Revised Judicature Act of 1961, MCLA 600.101 et seq.

§ 18-30. Penalties.

- A. A violation of any provision of this article is a municipal civil infraction punishable by a fine of not more than \$500, plus all costs of the action. The court may issue and enforce any judgment, writ, or order necessary to enforce this article. This may include reinstatement, payment of lost wages, hiring and promotion, sale, exchange, lease or sublease of real property, admission to a place of public accommodation, and other relief deemed appropriate.
- B. Each day upon which a violation occurs shall constitute a separate and new violation.
- C. A violation proved to exist on a particular day shall be presumed to exist on each subsequent day unless it is proved that the violation no longer exists.
- D. Nothing contained in this article shall be construed to limit in any way the remedies, legal or

equitable, which are available to the City or any person for the prevention or correction of discrimination.