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Saginaw Code of Ordinances

CHAPTER 93: NON-DISCRIMINATION

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DISCRIMINATION IN HOUSING**§ 93.01 PURPOSE.**

(A) *Determination.* It is hereby found that discrimination adversely affects the continued development, renewal, growth, and progress of the people of the City, and of the City, and that such discrimination is injurious to the public health, safety, and general welfare of the City and the people thereof.

(B) *Policy.* It is hereby declared to be the policy of the City, in the exercise of its police power and under the provisions of the Federal Civil Rights Act of 1866 (42 USC 1981—1985) and 1968 Fair Housing Law (Title VIII and IX) of the Civil Rights Act of 1968, 42 USC 3601 *et seq.*, 42 USC 3631, as amended by the Housing and Community Development Act of 1974 and other applicable law, for the protection of the public safety, public health, and general welfare, for the maintenance of business and good government, and for the promotion of the City's trade, commerce, and manufacture, to assure equal opportunity to all persons to live in adequate housing facilities, and to that end to prohibit discrimination in housing.

(38 Gen'l Code, Ch. 3, § 301) (Am. Ord. D-1454, passed 5-21-84, effective 5-31-84)

§ 93.02 EFFECT OF PROVISIONS.

(A) Nothing contained in this subchapter shall be deemed to supersede, compete with, or conflict with any of the provisions of the Civil Rights Act (42 USC 1981—1985) or any law of this state or this nation relating to discrimination because of race, color, creed, national origin, age, marital status, pregnancy, handicap, or source of income.

(B) All parts of this subchapter are severable, and if any one part is held invalid, all others shall remain in such full force and effect as can be without the involved provision or application.

(38 Gen'l Code, Ch. 3, § 307) (Am. Ord. D-1454, passed 5-21-84, effective 5-31-84)

§ 93.03 DEFINITIONS.

As used in this subchapter, unless a different meaning appears clearly from the context, the following terms shall have the meanings prescribed in this section:

AGE. Chronological age, including the status of being a minor.

BONA FIDE. The term **BONA FIDE** is not to mean the continuation of a practice which, while neutral on its face, tends to or in fact does continue in practice a form of discrimination not sanctioned by this subchapter.

COMPLAINANT. Any person or group of persons, association, agency, partnership, or corporation, public or private, including the City, who claims to have been injured or who believes that he or she will be irrevocably injured under this subchapter.

DISCRIMINATE or **DISCRIMINATION.** To make a decision, offer to make a decision, or refrain from making a decision, or to make any difference in treatment of individuals or groups or of the friends or associates of such individual or group based in whole or in part on the race, color, creed, religion, ancestry, national or sectional origin, sex, sexual orientation, age (including emancipated minors), condition of pregnancy, marital status, handicap (as defined by the Michigan Handicappers Act), source of income of the individual or group applying for the purchase, lease, rental or financing of housing units, real estate, or housing accommodations.

FINANCIAL INSTITUTION. The term means any person regularly engaged in the business of

lending money or guaranteeing loans on real property.

HANDICAP. A determinable physical or mental condition of an individual or a history of such condition which may result from disease, accident, condition of birth, or functional disorder which constitutes a physical or mental limitation which is unrelated to an individual's ability to acquire, rent, or maintain property (as defined by the Michigan Handicappers' Civil Rights Act).

HOUSING UNIT, FACILITY, OR ACCOMMODATION. Any dwelling unit or facility used for a person to regularly sleep and keep personal belongings, including, but not limited to, a house, apartment, rooming or boarding house, housing cooperative, hotel, motel, mobile home, retirement home, or nursing home.

MARITAL STATUS. The state of being married, unmarried, divorced, or widowed.

PERSON. Includes an association, partnership, agency, organization, or corporation, public or private, including all employees thereof as well as any natural person. The term, when applied to partnerships, associations, and corporations, includes members and officers.

REAL ESTATE BROKER AND AGENT. Any person who, for a fee or other valuable consideration, sells, purchases, exchanges, rents, negotiates, or attempts to negotiate the sale, purchase, exchange, or rental of real property or holds himself or herself out as licensed in the business of selling, purchasing, exchanging, or renting the real property of another.

RESPONDENT. The person, group of persons, association, agency, partnership, or corporation who allegedly commits a violation of this subchapter.

SEXUAL ORIENTATION. Male or female homosexuality, heterosexuality, or bisexuality, by preference or practice.

SOLICITATION. The following actions are prohibited only to the extent that they have the effect of committing a discriminatory housing practice under § 93.04(A). This subchapter does not prohibit:

- (1) Going in or upon the property of the individual to be solicited, except when requested in writing not to do so by such individual;
- (2) Communicating with the individual to be solicited by mail, telephone, telegraph, or messenger service, except when requested in writing not to do so by such individual;
- (3) Canvassing in streets or other public places;
- (4) Distributing handbills, circulars, cards, or other advertising matter;
- (5) Using loud speakers, sound trucks, or other voice-amplifying equipment;
- (6) Displaying signs, posters, or other advertising devices upon a real estate office;
- (7) Nondiscriminatory advertising in newspapers of general circulation, magazines, billboards, radio, television, or telephone directories.

SOURCE OF INCOME. Any legal source from which a person obtains money. This does not preclude a good faith business determination involving a person's ability to meet the financial burdens involved.

TRANSFER. To sell, rent, lease, sublease, or in any other way assign any interest in real property.

(38 Gen'l Code, Ch. 3, § 302) (Am. Ord. D-1454, passed 5-21-84, effective 5-31-84)

§ 93.04 DISCRIMINATORY HOUSING PRACTICES; EXCEPTIONS.

(A) *Discriminatory housing practices.* The following practices shall be violations of this subchapter:

(1) No person shall discriminate in renting, leasing, selling, or otherwise making available any housing units, facilities, or accommodations or refuse to engage in good faith in a real estate transaction with any person.

(2) No person shall discriminate in the terms, conditions, maintenance, or repair in providing any housing facility.

(3) No person shall refuse to lend money for the purchase, acquisition, construction, rehabilitation, maintenance, or repair of any real property solely because of the location in the City of such real property or other discriminatory practice as named in § 93.03.

(4) No person shall promote real estate transactions by representing that changes are occurring or will occur in an area with respect to race, color, religion, sex, or national origin, nor that the presence of individuals of any particular race, color, creed, religion, ancestry, national or sectional origin, sex, sexual orientation, age, condition of pregnancy, marital status, handicap, or source of income in an area will or may result in:

(a) A lowering of property values in the area;

(b) A change in the area as to the race, color, creed, religion, ancestry, national or sectional origin, sex, sexual orientation, age, condition of pregnancy, marital status, handicap, source of income of its owners or occupants;

(c) An increase in criminal or antisocial behavior in the area; or

(d) A change in the racial or ethnic composition of schools or other public facilities or services in the area.

(5) No person shall discriminate against another by representing to another person that any real property or housing accommodation is not available for inspection, sale, rental, or lease when in fact it is so available or by refusing to supply all property listings which he or she has available or by refusing to permit any person to inspect such property.

(6) No person shall discriminate against another by placing a sign or other display on any real property which indicates that the property is for sale without authority from the owner of said property.

(7) 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.

(8) No person shall discriminate in the publication or distribution of advertising material, information, or solicitation regarding housing accommodations.

(9) No agent, broker, or any other intermediary shall discriminate in making referrals, listings, or printing information with regard to housing accommodations. A report of a conviction of any such person for a violation of this subchapter shall be made to the applicable licensing or regulatory agency for such person or business.

(10) No person shall refuse to receive or fail to transmit a bona fide offer to engage in a real estate transaction from any person based in whole or in part on the race, color, creed, religion, ancestry, national or sectional origin, sex, sexual orientation, age, condition of pregnancy, marital status, handicap, or source of income.

(11) No person shall coerce, threaten, or retaliate against any individual or organization for making a complaint or assisting in the investigation regarding a violation or alleged violation of this subchapter, nor require, request, conspire with, or assist or request, coerce another person or persons to retaliate against any individual or organization for making a complaint or assisting in any investigation pursuant to this subchapter.

(12) No person shall conspire with, assist, coerce, or request another person to discriminate in any manner prohibited by this subchapter.

(13) No person shall discriminate against another by knowingly or intentionally presenting false or substantially misleading statements or by presenting statements for which the person has no factual proof to any individual or groups applying for the purchase, lease, rental, or financing of housing units, real estate, or housing accommodations. No person shall file a false or misleading claim or make false or misleading statements in a claim under penalty of this subchapter.

(14) No person shall discriminate against another by continuing to solicit the sale or listing for sale of real property by telephone, mail, or personally, with notice that the property owner has requested in writing the solicitor or the company the solicitor represents to cease such solicitation.

(15) No person, corporation, association, partnership, reciprocal exchange, or any other legal entity engaged in or attempting to engage in the business of making insurance or surety contracts in the City shall:

(a) Refuse to insure, refuse to continue to insure, or limit the amount of coverage available to an individual or risk on a discriminatory basis, including the location of the risk;

(b) Charge a different rate for the same coverage based on discrimination as defined in this subchapter.

(38 Gen'l Code, Ch. 3, § 303)

(B) *Exceptions.*

(1) The following practices shall not be violations of this subchapter:

(a) For a religious organization or institution to restrict any of its facilities of housing or accommodation which are operated as a direct part of religious activities to persons of the denomination involved.

(b) For the owner of an owner-occupied one-family (1) or two-family (2) dwelling or a housing facility or public accommodation facility, respectively, devoted entirely to the housing and accommodation of individuals of one (1) sex, to restrict occupancy and use on the basis of sex.

(c) To limit occupancy in a federally funded housing project or to provide federally funded public accommodations, assistance, or services to persons of low income, over fifty (50) years of age, or who are handicapped.

(d) To rent a housing accommodation for not more than twelve (12) months by the owner or lessor where it was occupied by said owner or lessor and maintained as the owner's or lessor's home for at least three (3) months immediately preceding occupancy by the tenant and is temporarily vacated while maintaining legal residence.

(e) For an educational institution to limit the use of its facilities to those affiliated with such institution.

(f) The rental of a housing accommodation in a building which contains housing accommodations for not more than two (2) families living independently of each other if the owner or members of his or her immediate family reside in one (1) of such housing accommodations, or to the rental of a room or rooms in a single housing unit by an individual if the lessor or a member of the lessor's immediate family resides therein. **IMMEDIATE FAMILY** for the purpose of this section shall mean a spouse, parent, child, or sibling.

(2) Nothing herein contained shall be construed to prohibit any affirmative action laws or programs instituted by any level of government or private person or group.

(3) Nothing herein contained shall prevent securing civil rights guaranteed by laws other than those set forth herein.

(38 Gen'l Code, Ch. 3, § 304)

(Am. Ord. D-1454, passed 5-21-84, effective 5-31-84)

§ 93.05 ADMINISTRATION AND POWERS.

(A) *Authority.* The authority for administration of this subchapter is derived from the City's police powers and from the Federal Civil Rights Act of 1866 (42 USC 1981—1985), and the 1968 Fair Housing Law (Titles VIII and IX of the Civil Rights Act of 1968; 42 USC 3601 *et seq.*, 42 USC 3631) as amended by the Housing and Community Development Act of 1974 and other applicable law.

(B) *Powers.* Subject to the policies established by the City, the powers and duties of the City to implement and enforce this subchapter shall be:

(1) To receive, investigate, make findings and recommendations upon complaints, and initiate its own investigations and complaints of violations of this subchapter;

(2) To issue or cause to be issued appropriate corrective orders, including orders to cease and desist, and to compel through court authorization compliance with the orders;

(3) To promulgate and publish rules, guidelines, and procedures for the conduct of its business; to issue publications and reports of investigations and research.

(38 Gen'l Code, Ch. 3, § 305) (Am. Ord. D-1454, passed 5-21-84, effective 5-31-84)

§ 93.06 COMPLAINT AND INVESTIGATION.

(A) Any person who claims to have been injured under this subchapter may file a written or oral complaint with the City. Complaints shall be in writing or, if oral, shall be reduced to writing, shall be verified, shall contain such information and be in such form as the City requires, and shall specify the section of this subchapter alleged to be violated.

(B) The City shall take steps to investigate the complaint and give notice in writing to the complainant and to the respondent of the investigation and the actions, if any, which will be taken. The City may defer its investigation to state or federal authorities when the same or similar complaint has been filed with state or federal authorities.

(C) A complaint under division (A) shall be filed within one hundred eighty (180) days after the alleged violation of this subchapter. Complaints may be amended reasonably and fairly at any time. A respondent may file an answer to the complaint within twenty (20) days after receipt of the complaint and, with leave of the City or its designee, reasonably amend the answer. All complaints and answers shall be verified.

(D) Housing complaints which tend to be supported by the evidence, after investigation by the City, may be referred to a hearing panel consisting of five (5) persons representing various interests in the housing field. The panel for each case shall be selected by the City Manager from a standing committee of eleven (11) members, including, if possible, representatives of all City organizations related to housing. The committee shall have been selected jointly by the Fair Housing Advisory Board and the Housing Committee of the Saginaw Human Relations Commission.

(E) After the hearing, the panel shall refer its findings and recommendations to the City Manager for action.

(F) No person shall provide false or substantially misleading information to any authorized person investigating a complaint regarding a violation of this subchapter, or sign a complaint for violation of this subchapter based upon false or substantially misleading information.

(38 Gen'l Code, Ch. 3, § 305) (Am. Ord. D-1454, passed 5-21-84, effective 5-31-84)

§ 93.07 ENFORCEMENT.

(A) The City Manager is hereby authorized and directed to promulgate any rules and regulations deemed necessary to implement the provisions of this subchapter.

(B) The City may commence an action to obtain injunctive relief to prevent discrimination prohibited by this subchapter, to enforce corrective orders and conciliation agreements authorized by this subchapter.

(C) The City, through the appropriate judicial processes, may compel a person to produce books, papers, records, or other documents which may be relevant to a violation or alleged violation of this subchapter.

(D) In cases involving alleged violations of this subchapter, the City may enter into agreements whereby persons agree to methods of terminating alleged discrimination. The form of such agreement may be reviewed jointly by the Housing Committee of the Human Relations Commission and the Fair Housing

Advisory Board. Violations of such agreements shall be violations of this subchapter and may be punishable through the appropriate judicial processes. Such agreements shall be a part of public record, and the City shall maintain the right to make any and all parts of such agreements public.

(E) (1) *Criminal enforcement.* Violation of this subchapter shall be deemed a misdemeanor. Each violation of this subchapter shall be punished by a fine not to exceed five hundred dollars (\$500.00), imprisonment of not more than ninety (90) days, or both.

(2) *Civil enforcement.* If, thirty (30) days after a complaint has been filed, or after the expiration of any other period of time set for voluntary compliance under this subchapter, there has been no voluntary compliance, then the person aggrieved may commence a civil action in any appropriate court to enforce the rights created or protected by this subchapter, as well as other applicable federal, state, or local laws. Upon request or upon its own motion, the court may enter such orders as are appropriate to the enforcement of this subchapter and other applicable laws, including enjoining respondents from engaging in practices in violation of this subchapter and the granting of actual damages, plus costs and attorney's fees.

('38 Gen'l Code, Ch. 3, § 306) (Am. Ord. D-1454, passed 5-21-84, effective 5-31-84)

SEX DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION, RESORT OR AMUSEMENT, INCLUDING CERTAIN CLUBS

§ 93.20 PURPOSE.

(A) The City Council hereby finds and declares that the City has a compelling interest in providing its citizens an environment where all persons, regardless of race, creed, color, national origin, or sex, have a fair and equal opportunity to participate in the business and professional life of the City. Although City, state, and federal laws have been enacted to eliminate discrimination in employment, women and minority group members have not attained equal opportunity in business and the professions. One barrier to the advancement of women and minorities in the business and professional life of the City is the discriminatory practices of certain membership organizations where business is conducted and valuable business contacts are made.

(B) While such organizations may avowedly be organized for social, cultural, civic, or educational purposes, and while many perform valuable services to the community, the commercial nature of some of the activities occurring therein and the prejudicial impact of these activities on business, professional, and employment opportunities of minorities and women cannot be ignored.

(C) The Council recognizes the interest in private association asserted by club members. However, the Council finds that this interest does not overcome the public interest in equal opportunity. Membership in certain private clubs and associations extends far beyond the symbolic value attached to it; there is an integral relationship between certain private clubs located within the City and achievement within one's profession, job, or business. Executives of many of the City's major corporations, banks, and trade and professional associations frequently use the facilities of such private clubs, rather than public facilities, for business meetings of all kinds, both formal and informal. Membership in these clubs and associations affords an individual the opportunity to make business and professional contacts, and to get to know and be

known by colleagues, competitors, and governmental leaders. Membership in such clubs or organizations provides an informal channel or network of communication through which it is frequently decided who will be considered for a job opening, or given a business contact or leadership role in the business community. Also, work on club committees and participation in their programs offers members the opportunity to demonstrate their respective abilities and to achieve distinction and prominence in their endeavors which, in turn, frequently leads to recognition within the City's business community.

(D) Some private membership clubs and associations in the City, although avowedly organized for other purposes, have distinctly public characteristics and commercial attributes. Business-related and commercial activities are central to the maintenance of such organizations, particularly where clubs have more than two hundred (200) members, provide meal service, and rent their facilities, directly or indirectly, to business firms and professional and trade associations for entertainment, conferences, or business meetings which may be attended by non-members. The commercial nature of some private membership clubs and associations is further evidenced by the fact that many members' dues and other club expenses are paid by their employers because the primary benefit conferred on employers is the promotion of their business and professional interests through the employees' membership in the club. In fact, business firms and individuals in many cases deduct the costs of membership in such clubs and associations as a legitimate business expense for income tax purposes.

(E) Such clubs and the organizations also rent their facilities through members for use as conference rooms for business meetings attended by non-members. Organizations where such practices occur provide benefits to business entities and persons other than members and thus are not in fact "private" in their nature. For this reason, the Council has determined to amend this code to prohibit discrimination based on sex by organizations which have more than two hundred (200) members, provide regular meal service, and regularly receive payment for dues, fees, use of space, facilities, services, meals, or beverages from or on behalf of non-members for the furtherance of trade or business.

(F) It is not the Council's purpose to dictate the manner in which certain private clubs conduct their activities or select their members, except insofar as is necessary to ensure that clubs do not automatically exclude persons from membership or enjoyment of club accommodations, advantages, and facilities on account of invidious discrimination. Nor is it the Council's purpose to interfere in club activities or subject club operations to scrutiny beyond what is necessary in good faith to enforce the provisions of this subchapter.

(G) In order to remove discriminatory barriers to economic advancement and provide an environment where all persons are able to participate fully in the City's business and professional life and avail themselves of the City's economic and employment opportunities, it is necessary that appropriate legislation be enacted.

(38 Gen'l Code, Ch. 3, § 301-1.1) (Am. Ord. D-1566, passed 10-12-87, effective 10-22-87)

§ 93.21 DEFINITIONS.

The following words and phrases, when used in this subchapter, shall have the meanings respectively ascribed to them:

DISCRIMINATE AGAINST. Treating differently.

DISCRIMINATION BASED ON SEX. Discrimination because of sex includes sexual harassment. ***SEXUAL HARASSMENT*** means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature under the following conditions:

- (1) Submission to the conduct or communication is made a term or condition either explicitly or implicitly to obtain employment, public accommodations or public services, education, or housing.
- (2) Submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting the individual's employment, public accommodations or public services, education, or housing.
- (3) The conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

PERSON. Includes an association, partnership, agency, organization, or corporation, public or private, including all employees thereof as well as any natural person. The term, when applied to partnerships, associations, and corporations, includes members and officers.

PLACE OF PUBLIC ACCOMMODATION, RESORT, OR AMUSEMENT.

- (1) Includes a business, educational institution, refreshment, entertainment, recreation, transportation, or health facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public, or which receives financial support through solicitation of the general public or through governmental subsidy of any kind.
- (2) A club shall be considered a ***PLACE OF PUBLIC ACCOMMODATION*** if it has more than two hundred (200) members, provides regular meal service, and regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages directly or indirectly from or on behalf of non-members for the furtherance of trade or business.

MEAL SERVICE. The provision, either directly or under a contract with another person, of breakfast, lunch, or dinner on three (3) or more days per week during two (2) or more weeks per month during six (6) or more months per year.

MEMBER. Any individual belonging to a club or place of public accommodation regardless of class of membership. Class of membership shall include but not be limited to, full membership, resident membership, nonresident membership, temporary membership, family membership, honorary membership, associate membership, membership limited to use of dining or athletic facilities, and membership of members' minor children or spouses.

PAYMENT DIRECTLY FROM A NONMEMBER. Payment made to a club, institution or place of accommodation by a non-member for expenses incurred by a member or non-member for dues, fees, use of space, facilities, services, meals, or beverages.

PAYMENT FOR THE FURTHERANCE OF TRADE OR BUSINESS. Payment made by or on behalf of a trade or business organization, payment made by an individual from an account which the

individual uses primarily for trade or business purposes, payment made by an individual who is reimbursed for the payment by the individual's employer or by a trade or business organization, or other payment made in connection with an individual's trade or business, including entertaining clients or business associates, holding meetings, or other business-related events.

PAYMENT INDIRECTLY FROM A NON-MEMBER. Payment made to a member or non-member by another non-member as reimbursement for payment made to a club, or any place of accommodation for expenses incurred for dues, fees, use of space, facilities, meals, or beverages.

PAYMENT ON BEHALF OF A NON-MEMBER. Payment by a member or non-member for expenses incurred for dues, fees, use of space, facilities, services, meals, or beverages by or for a non-member.

PRIVILEGES. Shall include, but not be limited to, membership in a club, institution, or place of accommodation, regardless of the class of membership, or the enjoyment of the accommodations, including the advantages of business contacts and enhanced employment and promotional opportunities, and facilities of a place of public accommodation.

(`38 Gen'l Code, Ch. 3, § 301-1.2) (Ord. D-1566, passed 10-12-87, effective 10-22-87)

§ 93.22 ILLEGAL DISCRIMINATION.

It is hereby declared to be illegal to discriminate against any person on the basis of sex as to admission to membership, or the rights and privileges of belonging to any club or any place of public accommodation, resort, or amusement, as defined herein.

(`38 Gen'l Code, Ch. 3, § 301-1.3) (Ord. D-1566, passed 10-12-87, effective 10-22-87)

§ 93.23 VIOLATION.

Violation of this subchapter shall be deemed a misdemeanor. Each violation of this subchapter shall be punished by a fine not to exceed five hundred dollars (\$500.00), imprisonment of not more than ninety (90) days, or both.

(`38 Gen'l Code, Ch. 3, § 301-1.4) (Ord. D-1566, passed 10-12-87, effective 10-22-87)