

ORDINANCE NO. C-32232

An ordinance relating to human rights and discrimination; amending SMC Section 1.05.210; and adding a new chapter to SMC Title 1.

The City of Spokane does ordain:

Section 1. That there be added to SMC Title 1 a new section, designated 1.06.010, to read as follows:

1.06.010 Findings.

The City of Spokane finds that discrimination based on race, religion, color, sex, national origin, marital status, familial status, age, sexual orientation, or disability poses a substantial threat to the health, safety and general welfare of the citizens of Spokane. The City deems it necessary and proper to enact a local ordinance to address these issues.

Section 2. That there be added to SMC Title 1 a new section, designated 1.06.020, to read as follows:

1.06.020 Purpose.

A. The City values the dignity and worth of all human beings and is committed to promoting justice, equity and an inclusive environment by respecting cultural and individual diversity and fostering mutual understanding among all people regardless of race, religion, color, sex, national origin, marital status, familial status, age, sexual orientation and disability. It is the intent of the City that all people have an equal opportunity to participate fully in the life of the city and that discriminatory barriers to equal participation in employment, housing and public accommodations be removed. The City has a compelling interest in eradicating and preventing such discrimination and in ensuring equal opportunity in employment, housing and public accommodations. Sections 1.06.010 through 1.06.090 represent the least restrictive means of achieving the City's objectives. In furtherance of this policy, those sections are to be broadly construed consistent with their remedial purpose and the intent expressed in this paragraph. These sections are not intended to establish or require affirmative action or quotas of any kind, or to infringe upon the authority vested in the Civil Service Commission and City Departments pursuant to the City Charter.

B. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, or its officers, employees or agents for any injury or damage resulting from or by reason of any act or omission in connection with the implementation or enforcement of this chapter on the part of the City by its officers, employees or agents.

C. Nothing in this chapter shall constitute a cause of action under state law or form a basis for relief in the state courts. It is the intent of this ordinance that all causes of action for violations of the ordinance shall lie within the City of Spokane Municipal Court.

D. Nothing in this chapter shall be deemed to deny any person the right to institute any action or to pursue any civil or criminal remedy for the violation of such person's civil rights.

Section 3. That there be added to SMC Title 1 a new section, designated 1.06.030, to read as follows:

1.06.030 Definitions.

A. "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the City and any agency or instrumentality of the City or of any political or civil subdivision thereof.

B. "Commission" means the human rights commission established in Chapter 4.10.

C. 1. "Discrimination" means different or unequal treatment because of race, religion, color, sex, national origin, marital status, familial status, age, sexual orientation, or disability.

2. "Discriminate" means to treat differently or unequally because of race, religion, color, sex, national origin, marital status, familial status, age, sexual orientation, or disability.

D. "Employee" means an individual who works for wages, salary, or commission, or a combination thereof, in the service of an employer, but does not include a person employed by a parent, grandparent, brother, sister, spouse, or child. The term includes an individual who is seeking or applying for employment.

E. 1. "Employer" means any person, acting in the interest of an employer, directly or indirectly, who employs employees within the city, or who solicits individuals within the city to apply for employment within the city.

2. The term means one who employs twenty-five or more employees in 1999; fifteen or more employees in 2000; and eight or more employees as of January 1, 2001 and thereafter.

3. The term includes the City itself, its boards, commissions and authorities.

F. "Familial status" means the relationship between two or more individuals at least one of whom

1. has not attained eighteen years of age and is domiciled
 - a. with a parent or person having legal custody, or
 - b. with the designee, with written permission, of a parent or person having legal custody; or
2. is pregnant; or
3. is in the process of securing legal custody of an individual who has not attained eighteen years of age.

G. "Labor organization" means an organization which is constituted for the purpose, in whole or in part, of collective bargaining or for dealing with an employer concerning grievances, terms or conditions of employment, or for other mutual aid or protection in connection with an employer.

- H. "Marital Status" means the status of being married, single, separated, divorced or widowed.
- I. "National origin" includes ancestry.
- J.
 - 1. "Person with a disability" means a person
 - a. with a physical or mental impairment that substantially limits one or more major life activities,
 - b. who has a record of such impairment, or
 - c. who is regarded as having such an impairment.
 - 2. "Major life activities" include but are not limited to self-care, ambulation, communication, transportation, education, socialization, employment and ability to acquire, rent, or maintain property.
 - 3. "Has a record of such impairment" means the person has a history of, or has been classified as having, such impairment.
 - 4. "Is regarded as having such an impairment" means the individual
 - a. has a physical or mental impairment that does not substantially limit major life activities but is treated by an employer or supervisor as having such a limitation,
 - b. has a physical or mental impairment that substantially limits major life activities only as a result of the attitude of others toward such impairment, or
 - c. has no physical or mental impairment that substantially limits major life activities but is treated by an employer or supervisor as having a substantially limiting impairment.
- K. "Place of public accommodation" means any place where the general public may go, or where goods, lodging, or services are offered, sold, or let, or any common carrier, including a place of entertainment or amusement, but shall not include an institution, bona fide club, or place of accommodation which is in its nature private.
- L. "Sex" means gender.
- M. "Sexual orientation" means actual or perceived heterosexuality, homosexuality, or bisexuality.

Section 4. That there be added to SMC Title 1 a new section, designated 1.06.040, to read as follows:

1.06.040 Reprisal or Retaliation.

It is a violation of this chapter for any person to discriminate in a manner prohibited by Sections 1.06.080 or 1.06.090, or to engage in a reprisal or retaliation against an individual because that individual has in good faith opposed the use of a practice forbidden by Sections 1.06.080 or 1.06.090, or has filed a complaint, testified, assisted, or participated in an investigation, proceeding or hearing under Sections 1.06.080 or 1.06.090, or has attempted to do so.

Section 5. That there be added to SMC Title 1 a new section, designated 1.06.050, to read as follows:

1.06.050 Enforcement.

- A. Initiation.

An individual claiming to be aggrieved by a practice prohibited by Sections 1.06.040, 1.06.080 or 1.06.090 may, within the time limit of Section 1.06.060, file a complaint on forms available from the staff of the commission signed under oath or affirmation by the charging party. Commission staff shall cause to be served or mailed by certified mail, return receipt requested, a copy of the charge on the respondent within twenty (20) days after the filing of the charge.

B. Mediation.

Mediation may be requested by either party within 30 days after the filing of the charge or notification of the charge. If the other party consents to mediation within 10 days of notification of the mediation request, staff will refer the complaint for mediation. Mediation sessions are not open to the public. If the complaint is resolved, the mediator will notify the City of the resolution and the complaint file will be closed. If the complaint is not resolved, it is processed pursuant to section C.

C. Complaint.

A complaint filed by a person claiming to be aggrieved by a practice prohibited by Sections 1.06.040, 1.06.080 or 1.06.090 is investigated by the City to determine if reasonable cause exists to believe a violation of this chapter has occurred. If so, the complaint shall be referred to the City Prosecuting Attorney as an infraction pursuant to SMC Chapter 1.05. The commission of an act of discrimination is punishable as an infraction pursuant to SMC Chapter 1.05.

Section 6. That there be added to SMC Title 1 a new section, designated 1.06.060, to read as follows:

1.06.060 Period of Limitation.

No complaint shall be accepted nor action taken unless the complaint is filed within one year from the date of the occurrence of the alleged unlawful practice. When the alleged unlawful practice is of a continuing nature, the limitation period will not commence to run until the unlawful practice has ceased.

Section 7. That there be added to SMC Title 1 a new section, designated 1.06.070, to read as follows:

1.06.070 Exemptions.

In addition to any specific exemptions set forth in Sections 1.06.080 or 1.06.090, it is lawful for a person to fail to comply with Sections 1.06.080 or 1.06.090

A. when compliance would substantially burden a person's exercise of religion; or

B. when exempting that person from the application of Sections 1.06.080 or 1.06.090 would not impede the objectives sought to be advanced by those sections, as described in Section 1.06.010.

C. Nothing in this ordinance shall be construed to protect criminal conduct.

Section 8. That there be added to SMC Title 1 a new section, designated 1.06.080 to read as follows:

1.06.080 Nondiscrimination in Employment Practices.

It is a violation of this chapter

A. for an employer to discriminate by refusing to hire, employ or promote, by barring or discharging from employment, in compensation or terms, conditions or privileges of employment; unless discrimination results from a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business;

B. for a labor organization to discriminate by excluding or expelling individuals from its membership or otherwise attempting to influence members of the organization from exercising or preserving their rights under this ordinance;

C. for an employer or an employment agency to discriminate by printing or circulating, or causing to be printed or circulated, any statement, advertisement or publication, or by using any employment application form, or by making an inquiry in connection with prospective employment which expresses, directly or indirectly, any limitation or specification, unless such limitation or specification is based upon a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business, or unless otherwise provided by state or federal law;

D. for an employment agency to discriminate by classifying or referring for employment, or by failing or refusing to refer for employment, or otherwise; unless such classification or referral results from a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business, or where such classification or referral is allowed under state or federal law;

E. for any person, whether an employer or an employee with the knowledge or assent of the employer, to assist, induce, compel or coerce the doing of any acts of discrimination, or to attempt to do so;

F. for a vocational, professional, or trade school located within the City and licensed to operate in Washington to discriminate in admission or in giving instruction to any otherwise qualified person;

G. 1. for an employer, labor organization, employment agency or local joint committee controlling apprentice training programs to discriminate by denying or withholding the right to be admitted to or participate in a guidance program, apprentice training program, on-the-job training program, or other occupational training or re-training program; in the terms, conditions, or privileges of such programs; by printing or circulating, or causing to be printed or circulated any statement, advertisement or publication, or by using any application form, or by making an inquiry in connection with such programs which expresses, directly or indirectly, any limitation or specification, or intent to make such limitation or specification or discrimination, unless based upon a bona fide occupational qualification.

2. For purposes of this subsection,

a. receipt or alleged receipt of treatment for a mental disorder is not evidence of a person's inability to perform the duties of a particular job or position;

b. it is not a violation of this chapter for a church, synagogue, mosque, temple or other religious institution, including but not limited to, a school, hospital or church camp, to prefer an employee or applicant for employment of one religious sect or persuasion over another person when

i. the religious sect or persuasion to which the employee or applicant belongs is the same as that of such church, synagogue, mosque, temple or other religious institution,

ii. in the opinion of the church, synagogue, mosque, temple or other religious institution such preference will best serve the purposes of the church or other religious institution, and

iii. the employment involved is closely connected with or related to the primary purposes of the church, synagogue, mosque, temple or other religious institution but is not connected with a commercial or business activity which has no necessary relationship to the church, synagogue, mosque, temple or other religious institution or to its primary purposes;

c. it is not a violation of this chapter for an employer, labor organization or local joint committee controlling apprentice training programs to select an apprentice on the basis of the ability to complete the required apprenticeship training before attaining the age of seventy years;

d. it is not a violation of this chapter for an employer or labor organization to provide or make financial provisions for child-care services of a custodial or other nature to its employees or members who are responsible for a minor child, meaning having custody or legal guardianship of a minor child or acting *in loco parentis* to the child;

e. the compulsory retirement of an employee at any age is not a violation of this chapter if lawful under state or federal law;

f. It is not a violation of this chapter to act to accomplish the purposes and goals of an affirmative action plan of the employer, employment agency or labor organization.

g. discrimination on the basis of age shall not be applicable with respect to individuals who are under forty (40) years of age.

Section 9. That there be added to SMC Title 1 a new section, designated 1.06.090, to read as follows:

1.06.090 Non-Discrimination.

A. Housing Practices.

1. It is a violation of this chapter for any person to discriminate by

a. refusing to sell, lease, rent or otherwise make available any offered real property,

b. expelling a purchaser, lessee or renter from any real property,

c. altering the price, terms, conditions or privileges relating to the sale, rental, lease or occupancy of real property, or in the furnishing of any facilities or services in connection with real property,

d. attempting to discourage the sale, rental or lease of any real property to a purchaser, lessee or renter,

e. publishing, circulating, issuing or displaying, or causing to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind relating to the sale, rental or lease of real property which indicates any preference, limitation or specification with respect thereto,

f. assisting, inducing, compelling or coercing another person to commit an act or engage in a practice that violates this subsection,

g. coercing, intimidating, threatening or interfering with any person in the exercise or enjoyment of, or on account of having aided or encouraged any other person in the exercise of, any right granted or protected by his subsection.

h. Nothing in this subsection shall apply to

(i) A single family house rented or leased by the owner if the owner does not own or have an interest in the proceeds of the rental or lease of more than three such single-family houses at one time, the rental or lease occurred without the use of a real estate broker or sales person, and the rental or lease occurred without the publication, posting, or mailing of any advertisement, sign, or statement in violation of section 1e of this subsection; or

(ii) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the rooms or units as his or her residence.

2. No person whose business includes engaging in residential real estate related transactions may discriminate in making available or in the terms and conditions of such a transaction. "Residential real estate related transaction" means the making or purchasing of loans or providing other financial assistance for purchasing, construction, improving, repairing or maintaining a dwelling; or securing residential real estate; or the selling, brokering or appraising of residential real property.

3. No real estate licensee may accept or retain a listing of real property for sale, lease or rental with an understanding that a purchaser may be discriminated against with respect to the sale, rental or lease.

4. No person may for profit induce or attempt to induce any other person to sell or rent any dwelling by representations regarding entry or prospective entry into the neighborhood of a person or person of a particular race, religion, color, sex, national origin, marital status, familial status, age, sexual orientation, or disability.

5. For purpose of this subsection receipt or alleged receipt of treatment for a mental disorder does not constitute evidence of a person's inability to acquire, rent or maintain property.

6. For purposes of this subsection, discrimination includes

a. a refusal to permit at the expense of the person with a disability reasonable modification of existing premises occupied or to be occupied by such person if such modification may be necessary to afford such person full enjoyment of the premises, except that in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for such modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted,

b. a refusal to make reasonable accommodations in rules, policies, practices or services when such accommodation may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

7. The prohibition against discrimination because of sex in paragraphs 1 and 3 do not apply if the real property involved is such that the application of those paragraphs would necessarily result in common use of bathroom or bedroom facilities by unrelated person of opposite sex.

8. The provisions of this section shall not apply to private individuals seeking a roommate in leased or owned residences in which they reside.

9. The prohibitions against discrimination because of familial status and age in this subsection do not apply with respect to housing for older persons.

a. For purposes of this paragraph "housing for older persons" means housing which satisfies one or more of the following criteria:

i. provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined by the state or federal program, or

ii. intended for and solely occupied by persons sixty-two years of age or older, or

iii. intended and operated for occupancy by at least one person fifty-five years of age or older per unit.

b. Housing qualifies as housing for older person under this paragraph if

i. significant facilities and services are specifically designed to meet the physical or social needs of older persons or, if provision of such facilities and services is not practicable, such housing is necessary to provide important housing opportunities for older persons,

ii. at least eighty percent of the dwellings are occupied by at least one person fifty-five years of age or older per unit, and

iii. policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older are published and adhered to.

c. Housing does not fail to meet the requirements for housing for older persons if

i. persons residing in such housing as of the date of adoption of this ordinance, do not meet the requirements of subparagraphs 9.a.i and ii; however, new occupants of such housing must meet the age requirements of subparagraphs 9.a.ii or iii; or

ii. the housing includes unoccupied units; however, such units are reserved for occupancy by persons who meet the age requirements of subparagraphs 9.a.ii or iii.

10 Nothing in this section limits the applicability of any local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

B. Public Accommodation Practices.

It is an unlawful practice for a place of public accommodation or a person acting on behalf of a place of public accommodation, or for a person assisting a place of public accommodation or a person acting on behalf of such place, to

1. discriminate as provided in this section; or

2. publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind to the effect that any of the accommodations, advantages, facilities, services or privileges of such place of public accommodation will be refused to, withheld from, or denied to any person because of discrimination. This provision does not prohibit the use of special rates or services offered to persons fifty-five years old and older or the promotion of business through the issuance of special rates for families with children.

Section 11. That Sections 1 through 10 of this ordinance shall constitute a new chapter in SMC Title 1, designated Chapter 1.06 Law Against Discrimination.

Section 12. That SMC Section 1.05.210 be amended to read as follows:

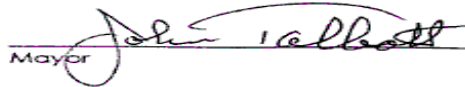
1.05.210 Penalty Schedule -- Personal Conduct.

A. For each subsequent violation, excluding continuing violations, by a person the classification of infraction advances by one class.

B. Violation	Infraction Class
Ex Parte Contact with Adjudicative Officer - 11.02.0120.....	2
Attempt to Influence or Interfere With Adjudicative Officer - 11.02.0130.....	1
Littering, Unlawful Disposal of Rubbish - 10.08.010.....	1
Deposit of Tobacco Product Capable of Being Lit - 10.08.010.....	\$500
Purchase, Possession of Tobacco by Minor - 10.08.055.....	3
Liquor Purchase by Apparently Intoxicated Person - 10.08.246.....	\$500
Harbor Dog or Cat without License - 10.24.010.....	3
Permit Animal to Run at Large - 10.24.020.....	3
Sell, Use, Discharge Fireworks - 10.33A.055.....	3
Open Burning - UFC 11.203.....	1
Disposal of Liquid Waste in Unapproved Place or Manner - 11.09.070.....	1
Offending Peace and Order in Public Park - 10.10.040, 12.06.050, 060, 070, 080.....	1
Not Having or Displaying Concealed Pistol License - 10.11.042.....	1
Selling or Giving Drug Paraphernalia - 10.15.115.....	1
<u>Act of Discrimination -- 1.06.040.....</u>	<u>1</u>

(Chap. 133, 253, 259, 317, Laws of 1998)(ORD C32197) Passed 1998/06/15 Effective On: 1998/06/11

Passed by the City Council _____, 1998.


Mayor

Attest:

Approved as to form:


City Clerk


Assistant City Attorney

