



CITY ATTORNEY'S OFFICE

AMENDED BY COMMITTEE

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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**ORDINANCE PROHIBITING DISCRIMINATION IN REAL ESTATE TRANSACTIONS AND IN THE PROVISION OF GOODS, FACILITIES, AND SERVICES BY ANY BUSINESS, THE CITY, OR CITY FUNDED ENTITY, ON THE BASIS OF DIVERSE FAMILY AND RELATIONSHIP STRUCTURE**

**WHEREAS**, the City of Oakland recognizes the diverse composition of its citizenry and values its people, including the diverse composition of families and intimate relationships; and

**WHEREAS**, the City recognizes that diverse family structures, including relationship structures involving more than two adults engaged in a loving and consensual relationship, are becoming increasingly common; and

**WHEREAS**, people in interpersonal relationships between two or more adult individuals that involve romantic, physical, emotional, and/or familial intimacy face discrimination in many aspects of public life due to prejudicial misunderstandings related to the validity and moral fitness of such relationships; and

**WHEREAS**, Single parents and people who identify as asexual and/or aromantic also face discrimination in many aspects of public life; and

**WHEREAS**, the City has enacted antidiscrimination provisions throughout its Municipal Code to prohibit discrimination in matters of housing, employment, education, contracts, purchasing, and public accommodations; and

**WHEREAS**, the City of Oakland acknowledges that many antidiscrimination laws were enacted in a time when diverse family and relationship structures were not properly recognized and now seeks to recognize the diverse relationship structures of its residents, including multi-partner/multi-parent families and relationships, step families, single parents, multi-generational households, consensually non-monogamous relationships, and consensual sexual and/or intimate relationships, including asexual and aromantic relationships; and

**WHEREAS**, in order to recognize these relationships in the full scope of anti-discrimination law, we must change the antidiscrimination language of the Ordinances of the City of Oakland to prohibit discrimination on the basis of relationship status; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals** The City Council of the City of Oakland hereby determines that the preceding recitals are true and correct and an integral part of the Council’s decision to enact this legislation, and hereby adopts and incorporates them into this Ordinance.

**SECTION 2. Addition of Chapter 9.45 to Oakland Municipal Code.** Oakland Municipal Code 9.45 is hereby adopted as set forth in its entirety:

**Chapter 9.45 DISCRIMINATION BASED ON DIVERSE FAMILY AND RELATIONSHIP STRUCTURE**

**9.45.010 Definitions.**

"Business establishment" means any entity, however organized, which furnishes goods, services or accommodations to the general public. An otherwise qualifying establishment which has membership requirements is considered to furnish services to the general public if its membership requirements: (1) consist only of payment of fees; (2) consist of requirements under which a substantial portion of the residents of this city could qualify; or (3) consist of an otherwise unlawful business practice.

"Discrimination" means any act, policy or practice which, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's family and relationship structure. The phrase "differential treatment" includes any limitation on a person's full, unsegregated and equal access to or enjoyment of, employment, real estate transactions, business establishments, and municipal services. Discrimination on the basis of family and relationship structure shall include both discrimination based on actual knowledge of family and relationship structure and discrimination based on supposition or assumption of family and relationship structure or desired structure.

“Family and relationship structure” means the actual or perceived involvement, or lack thereof, of an individual in an intimate personal relationship or relationships, other than a marital relationship. It includes an individual’s actual or perceived affinity, or lack thereof, for any given type of intimate personal relationship, other than a marital relationship, regardless of whether the individual is currently in any intimate personal relationship(s).

“Intimate personal relationship” means an interpersonal relationship, other than a marital relationship, between two or more adult individuals that involves romantic, physical, or emotional intimacy. This includes multi-partner/multi-parent families and relationships, step

families, multi-generational households, diverse family structures, consensually non-monogamous relationships, and consensual sexual and/or intimate relationships, including asexual and aromantic relationships.

"Person" means any natural person, firm, corporation, partnership or other organization, association or group of persons however organized.

"Real estate transactions" means and includes the sale, repair, improvement, lease, rental, or occupancy of any interest or portion of any interest in real property and shall also include the extension of credit, financing, insurance or services in connection with the sale, repair, improvement, lease, rental, or occupancy of any such interest in real property.

#### **9.44.020 Unlawful practices.**

- A. In General. It is unlawful for any person to do anything which has the effect of discriminating against any person as a result of that person's family and relationship structure, with respect to any of the following activities:
  - 1. Real Estate. Any real estate transaction;
  - 2. Business Establishments. The availability of goods, facilities or services from any business establishment;
  - 3. City Services and Facilities. The use or availability of any municipal service or facility;
  - 4. City Supported Services and Facilities. The use or availability of any service or facility wholly or partially funded or otherwise supported by the city.
- B. Exceptions.
  - 1. Real Estate Transactions.
    - a. Owner Occupied Dwellings. Nothing in subsection (A)(1) of this section shall be construed to apply to the rental or leasing of any housing unit in which the owner or lessor or any member of their family occupies one of the living units and it is necessary for the owner, lessor or family member to use either a bathroom facility or a kitchen facility in common with the prospective tenant.
    - b. Effect on Other Laws. Nothing in subsection (A)(1) of this section shall be deemed to permit any rental or occupancy of any dwelling unit or commercial space otherwise prohibited by law.
  - 2. City Supported Services and Facilities. Subsection (A)(4) of this section does not apply to facilities or services which only receive assistance from the city which is provided to the public generally.
- C. Advertising. It is unlawful for any person to make, publish or disseminate any notice or statement which indicates that such person engages in or will engage in any practice prohibited by this chapter.

- D. It shall be an unlawful practice for any person to deny any individual access to the full and equal enjoyment of privileges, benefits, goods, services and facilities, consistent with the person's family relationship structure.

**9.45.030 Civil Enforcement.**

- A. Civil Action. Any aggrieved person may enforce the provisions of this chapter by means of a civil action.
- B. Equitable Relief. Any person who commits, proposes to commit, or aids another in committing an act that violates this Chapter may be enjoined therefrom by any court of competent jurisdiction. The court may also award any further relief it deems proper, including but not limited to restitution.
- C. Civil Liability. Any person who violates, or any person who aids another to violate, any provision of this Chapter shall be liable for up to three (3) times actual damages and litigation costs and reasonable attorney's fees. The court may award punitive damages in a proper case as set out in Civil Code Section 3294 and pursuant to the standards set forth in that Code Section or any successor thereto, pursuant to standards for punitive damages set by state law.
- D. Remedies Not Exclusive. The remedies available in this Chapter are not exclusive and may be used cumulatively with any other remedies in this Chapter or at law.

**9.45.040 Limitation on action.**

Judicial actions under this chapter must be filed within three years of the alleged discriminatory acts.

**9.45.050 Nonwaiverability.**

Any written or oral agreement whereby any provision of this chapter is waived or modified, is against public policy and void.

**SECTION 3. No Conflict with Federal or State Law.** Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

**SECTION 4. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 5. California Environmental Quality Act.** This action is exempt from the California Environmental Quality Act ("CEQA") under the following, each as a separate and independent basis, including but not limited to, the following: CEQA Guideline Section 15378

(regulatory action), Section 15061 (b)(3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan and zoning).

**SECTION 6. Correction of Errors.** The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors) to this legislation.

**SECTION 7. Effective Date.** This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND  
PRESIDENT FORTUNATO BAS

NOES –  
ABSENT –  
ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California

Date of Attestation: \_\_\_\_\_

## **NOTICE AND DIGEST**

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This Ordinance prohibits discrimination in real estate transactions and in the provision of goods, facilities, and services by any business, the city, or city funded entity, on the basis of diverse family and relationship structure.