

111526

ORDINANCE NO. _____

An Ordinance to amend the Code of the City of Flint by amending Chapter 24, Housing; Article II, Open Occupancy; Section 24-98, Discrimination in Sale, Lease or Rental.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF FLINT:

Sec. 1. That the Code of the City of Flint shall be amended by amending Chapter 24, Housing; Article II, Open Occupancy; Section 24-98, Discrimination in Sale, Lease or Rental, which shall read in its entirety as follows:

§ 24-98 DISCRIMINATION IN SALE, LEASE OR RENTAL.

It shall be unlawful for any owner, lessee or sublessee of real property, or any agent or representative thereof, to refuse to sell, exchange, rent or lease any housing accommodation or living quarters of any sort within the City, because of race, color, religion, national origin, sex, age, height, weight, condition of pregnancy, marital status, physical or mental limitation, sexual orientation, gender identity, gender expression or actual or perceived HIV status.

24-98.1 INTENT.

IT IS THE INTENT OF THE CITY THAT NO PERSON BE DENIED 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 RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, HEIGHT, WEIGHT, CONDITION OF PREGNANCY, MARITAL STATUS, PHYSICAL OR MENTAL LIMITATION, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, OR ACTUAL OR PERCEIVED HIV STATUS. AS USED HEREIN, "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.

NOTHING HEREIN CONTAINED SHALL BE CONSTRUED TO PROHIBIT ANY AFFIRMATIVE ACTION LAWS PASSED BY ANY LEVEL OF GOVERNMENT.

24-98.2 DEFINITIONS.

AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES HAVE THE FOLLOWING MEANINGS:

(1) *AGE*. CHRONOLOGICAL AGE.

(2) *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 ARE HELD BY THE CITY.

(3) *DISCRIMINATE*. TO MAKE A DECISION, OFFER TO MAKE A DECISION OR REFRAIN FROM MAKING A DECISION BASED IN WHOLE OR IN PART ON THE RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, HEIGHT, WEIGHT, CONDITION OF PREGNANCY, MARITAL STATUS, PHYSICAL OR MENTAL LIMITATION, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, OR ACTUAL OR PERCEIVED HIV STATUS.

FOR THE PURPOSES OF §24-98.5 ONLY, 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 OR REJECTION OF SUCH CONDUCT OR COMMUNICATION BY AN INDIVIDUAL IS USED AS A FACTOR IN DECISIONS AFFECTING SUCH INDIVIDUAL'S, PUBLIC ACCOMMODATIONS OR HOUSING.

DISCRIMINATION BASED ON ACTUAL OR PERCEIVED PHYSICAL OR MENTAL LIMITATION INCLUDES DISCRIMINATION BECAUSE OF THE USE BY AN INDIVIDUAL OF ADAPTIVE DEVICES OR AIDS.

AS USED HEREIN, "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.

(4) *GENDER IDENTITY.* A PERSON'S ACTUAL OR PERCEIVED GENDER, INCLUDING A PERSON'S GENDER IDENTITY, SELF-IMAGE, APPEARANCE, EXPRESSION, OR BEHAVIOR, WHETHER OR NOT THAT GENDER IDENTITY, SELF-IMAGE, APPEARANCE, EXPRESSION, OR BEHAVIOR IS DIFFERENT FROM THAT TRADITIONALLY ASSOCIATED WITH THE PERSON'S SEX AT BIRTH AS BEING EITHER FEMALE OR MALE.

(5) *GENDER EXPRESSION.* EXTERNAL MANIFESTATION OF ONE'S GENDER IDENTITY, USUALLY EXPRESSED THROUGH "MASCULINE," OR "FEMININE," OR GENDER VARIANT BEHAVIOR, CLOTHING, HAIRCUT, VOICE OR BODY CHARACTERISTICS.

(6) *HIV STATUS.* A PERSON WHO HAS, OR HAS BEEN DIAGNOSED AS HAVING BEEN INFECTED WITH, THE HUMAN IMMUNODEFICIENCY VIRUS, WHETHER OR NOT THAT PERSON HAS OR HAS BEEN DIAGNOSED AS HAVING ACQUIRED IMMUNODEFICIENCY

SYNDROME OR ACQUIRED IMMUNODEFICIENCY SYNDROME RELATED COMPLEX.

(7) *HOUSING FACILITY.* 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 HOUSE, HOUSING COOPERATIVE, HOTEL, MOTEL, TOURIST HOME, RETIREMENT HOME OR NURSING HOME.

(8) *MARITAL STATUS.* THE STATE OF BEING MARRIED, UNMARRIED, DIVORCED OR WIDOWED.

(9) *MENTAL LIMITATION.* A LIMITATION OF MENTAL CAPABILITIES UNRELATED TO ONE'S ABILITY TO SAFELY PERFORM THE WORK INVOLVED IN JOBS OR POSITIONS AVAILABLE TO SUCH PERSON FOR HIRE OR PROMOTION; A LIMITATION OF MENTAL CAPABILITIES UNRELATED TO ONE'S ABILITY TO ACQUIRE, RENT AND MAINTAIN PROPERTY; OR A LIMITATION OF MENTAL CAPABILITIES UNRELATED TO ONE'S ABILITY TO UTILIZE AND BENEFIT FROM THE GOODS, SERVICES, ACTIVITIES, PRIVILEGES AND ACCOMMODATIONS OF A PLACE OF PUBLIC ACCOMMODATION. "MENTAL LIMITATION" INCLUDES, BUT IS NOT LIMITED TO, DEVELOPMENTAL DISABILITIES, PSYCHOLOGICAL, ETC. "MENTAL LIMITATION" DOES NOT INCLUDE ANY CONDITION CAUSED BY THE CURRENT ILLEGAL USE OF A CONTROLLED SUBSTANCE.

(10) *MINORITY.* A PERSON WHO IS BLACK OR AFRICAN AMERICAN, NATIVE AMERICAN, OR ALASKAN NATIVE, HISPANIC OR LATINO, ASIAN, NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER.

(11) *PHYSICAL LIMITATION.* A LIMITATION OF PHYSICAL CAPABILITIES UNRELATED TO ONE'S ABILITY TO SAFELY PERFORM THE WORK INVOLVED IN JOBS OR POSITIONS AVAILABLE TO SUCH PERSON FOR HIRE OR PROMOTION; A LIMITATION OF PHYSICAL CAPABILITIES UNRELATED TO ONE'S ABILITY TO ACQUIRE, RENT AND MAINTAIN PROPERTY; OR A LIMITATION OF MENTAL CAPABILITIES UNRELATED TO ONE'S ABILITY TO UTILIZE AND BENEFIT FROM THE GOODS, SERVICES, ACTIVITIES, PRIVILEGES AND ACCOMMODATIONS OF A PLACE OF PUBLIC ACCOMMODATION. "PHYSICAL LIMITATION" INCLUDES, BUT IS NOT LIMITED TO, BLINDNESS OR PARTIAL SIGHTEDNESS, DEAFNESS OR HEARING IMPAIRMENT, MUTENESS, PARTIAL OR TOTAL ABSENCE OF PHYSICAL MEMBER, SPEECH IMPAIRMENT AND MOTOR IMPAIRMENT. "PHYSICAL LIMITATION" DOES NOT INCLUDE ANY CONDITION CAUSED BY THE CURRENT ILLEGAL USE OF A CONTROLLED SUBSTANCE.

(12) *PLACE OF PUBLIC ACCOMMODATION.* AN EDUCATIONAL, GOVERNMENTAL, HEALTH, DAY CARE, ENTERTAINMENT, CULTURAL, RECREATIONAL, REFRESHMENT, TRANSPORTATION, FINANCIAL INSTITUTION, ACCOMMODATION, BUSINESS OR OTHER FACILITY OF ANY KIND, 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 THE SOLICITATION OF THE GENERAL PUBLIC OR THROUGH GOVERNMENTAL SUBSIDY OF ANY KIND.

(13) *SEXUAL ORIENTATION.* MALE OR FEMALE HOMOSEXUALITY, HETEROSEXUALITY OR BISEXUALITY, BY ORIENTATION OR PRACTICE.

24-98.3 DISCRIMINATORY HOUSING PRACTICES.

(1) NO PERSON SHALL DISCRIMINATE IN LEASING, SELLING OR OTHERWISE MAKING AVAILABLE ANY HOUSING FACILITIES.

(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 OR REPAIR OF ANY REAL PROPERTY OR INSURE ANY REAL PROPERTY SOLELY BECAUSE OF THE LOCATION IN THE CITY OF SUCH REAL PROPERTY.

(4) 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.

(5) 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.

24-98.4 DISCRIMINATORY PUBLIC ACCOMMODATION PRACTICES.

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. NO PERSON SHALL PROHIBIT A BREASTFEEDING MOTHER FROM, OR SEGREGATE A BREASTFEEDING MOTHER WITHIN, ANY PUBLIC ACCOMMODATION WHERE SHE AND THE CHILD WOULD OTHERWISE BE AUTHORIZED TO BE.

24-98.5 EXCEPTIONS.

NOTWITHSTANDING ANYTHING CONTAINED IN THIS SECTION, THE FOLLOWING PRACTICES SHALL NOT BE VIOLATIONS OF THIS SECTION.

(1) FOR A RELIGIOUS ORGANIZATION OR INSTITUTION TO RESTRICT ANY OF ITS FACILITIES OF HOUSING OR ACCOMMODATIONS WHICH ARE OPERATED AS A DIRECT PART OF RELIGIOUS ACTIVITIES TO PERSONS OF THE DENOMINATION INVOLVED.

(2) FOR THE OWNER OF AN OWNER-OCCUPIED 1-FAMILY OR 2-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.

(3) TO LIMIT OCCUPANCY IN A HOUSING PROJECT TO PERSONS OF LOW INCOME, OVER 55 YEARS OF AGE OR WHO ARE HANDICAPPED.

(4) TO ENGAGE IN A BONA FIDE EFFORT TO ESTABLISH AN AFFIRMATIVE ACTION PROGRAM TO IMPROVE OPPORTUNITIES IN EMPLOYMENT FOR MINORITIES AND WOMEN THAT IS CONSISTENT WITH STATE AND FEDERAL LAW.

(5) TO DISCRIMINATE BASED ON A PERSON'S AGE WHEN SUCH DISCRIMINATION IS REQUIRED BY STATE, FEDERAL OR LOCAL LAW.

(6) TO REFUSE TO ENTER INTO A CONTRACT WITH AN UNEMANCIPATED MINOR.

(7) TO DISCRIMINATE IN ANY ARRANGEMENT FOR THE SHARING OF A DWELLING UNIT.

24-98.9 PENALTIES.

(1) A VIOLATION OF ANY PROVISION OF THIS SECTION IS A CIVIL INFRACTION PUNISHABLE BY A FINE OF NOT MORE THAN \$500.00 PLUS ALL COSTS OF THE ACTION. THE COURT MAY ISSUE AND ENFORCE ANY JUDGMENT, WRIT, OR ORDER NECESSARY TO ENFORCE THIS SECTION. IN ADDITION TO CIVIL FINES, THIS MAY INCLUDE REINSTATEMENT,

(2) EACH DAY UPON WHICH A VIOLATION OCCURS SHALL CONSTITUTE A SEPARATE VIOLATION.

(3) 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.

(4) NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO LIMIT IN ANY WAY THE REMEDIES, LEGAL OR EQUITABLE, WHICH ARE AVAILABLE TO THE CITY OR ANY OTHER PERSON FOR THE PREVENTION OR CORRECTION OF DISCRIMINATION.

24-98.10 PRIVATE ACTIONS FOR DAMAGES OR INJUNCTIVE RELIEF.

(1) AN INDIVIDUAL WHO IS THE VICTIM OF DISCRIMINATORY ACTION

EM SUBMISSION NO: 2012EM130

PRESENTED: 2-23-12

ADOPTED: 3-1-12

IN VIOLATION OF THIS SECTION MAY BRING A CIVIL ACTION IN THE COURT OF JURISDICTION, FOR APPROPRIATE INJUNCTIVE RELIEF OR DAMAGES OR BOTH AGAINST THE PERSON(S) WHO ACTED IN VIOLATION OF THIS SECTION.

(2) AS USED IN SUBSECTION (1), "DAMAGES" MEANS DAMAGES FOR INJURY OR LOSS CAUSED BY EACH VIOLATION OF THIS SECTION, INCLUDING REASONABLE ATTORNEY FEES.

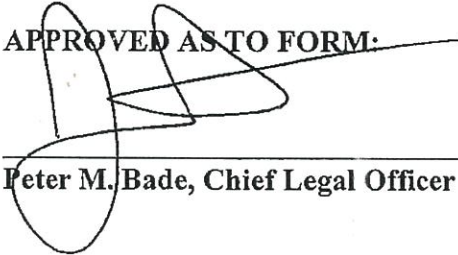
Sec. 2. This Ordinance shall become effective on the _____ day of _____, 2011.

Adopted this _____ day of _____, 2011, A.D.

Dayne Walling, Mayor

Inez M. Brown, City Clerk

APPROVED AS TO FORM:

for 

Peter M. Bade, Chief Legal Officer

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EM DISPOSITION:

ENACT ✓ FAIL _____

DATED 3-1-12



Michael K. Brown, Emergency Manager