

## ORDINANCE NO. 76

AN ORDINANCE OF THE CHARTER TOWNSHIP OF LANSING, INGHAM COUNTY, MICHIGAN, PROVIDING THAT THE CODE OF ORDINANCES, CHARTER TOWNSHIP OF LANSING, MICHIGAN, BE AMENDED BY ADDING CHAPTER 18 (“NON-DISCRIMINATION”) TO TITLE I (“GENERAL PROVISIONS”) TO: PROHIBIT DISCRIMINATORY PRACTICES; PROVIDE DEFINITIONS; ESTABLISH PROCEDURES FOR INVESTIGATIONS AND CONCILIATION AGREEMENTS; REQUIRE TOWNSHIP CONTRACTORS TO ABIDE BY NON-DISCRIMINATION; AUTHORIZE CERTAIN TOWNSHIP OFFICIALS TO ENFORCE THE ORDINANCE; PROVIDE FOR PENALTIES FOR VIOLATIONS AND DESIGNATE VIOLATIONS OF THE ORDINANCE AS MUNICIPAL CIVIL INFRACTIONS; REPEAL ORDINANCES AND PORTIONS OF ORDINANCES INCONSISTENT WITH THIS ORDINANCE; AND PROVIDE AN EFFECTIVE DATE THEREOF.

THE TOWNSHIP BOARD OF TRUSTEES FOR THE CHARTER TOWNSHIP OF LANSING HEREBY ORDAINS:

1. The Charter Township of Lansing Code of Ordinances is hereby amended by adding Chapter 18 (“Non-Discrimination”) to Title I (“General Provisions”) as follows:

### **Section 18-1. Intent.**

It is the intent of the Township that no person be denied equal protection of the laws; nor shall any person be denied the enjoyment of his or her civil or political rights or be discriminated against because of actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, disability, source of income, familial status, sexual orientation, genetic information or gender identity/expression. It is also the intent of the Township to preserve the rights granted to religious organizations by Michigan and Federal law. This Chapter shall govern discriminatory *conduct* and shall not infringe upon free speech rights granted by the First Amendment to the United States Constitution. Nothing contained in this chapter shall be construed to prohibit any affirmative action policies passed by any level of government.

### **Section 18-2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Age.* Chronological age.

*Complaint Review Committee.* Committee composed of a minimum of three (3) residents of Lansing Township responsible for reviewing complaints which shall, to the extent possible, collectively be representative of the population of Lansing Township. The Complaint Review Committee shall remain an impartial decision-maker. Members shall abstain from participation if

they have a conflict of interest. The Township Board may appoint alternate members to the committee.

*Conciliation Agreement.* An agreement entered into among the Complaint Review Committee, the person alleged to have been discriminated against and the person alleged to have engaged in a prohibited practice under this chapter, whereby the persons agree to methods of resolving a complaint, terminating discrimination or reversing the effects of past discrimination.

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

*Disability.* With respect to a person or an individual, (A) a physical or mental impairment that substantially limits one or more major life activities of such person or individual; (B) a record of such an impairment; or (C) being perceived or regarded as having such an impairment.

*Discriminate.* To make a decision, offer to make a decision or refrain from making a decision, or other acts or omissions, based in whole or in part on actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, disability, source of income, familial status, sexual orientation, genetic information or gender identity/expression. Discrimination based on actual or perceived disability includes discrimination related to the use by an individual of adaptive devices or aids.

*Employer.* A person employing one or more persons.

*Employment agency.* A person regularly undertaking, with or without compensation, to procure, refer, recruit, or place an employee for an employer, or to procure, refer, recruit, or place for an employer or person the opportunity to work for an employer and includes any agent of that person.

*Familial status.* 1 or more individuals under the age of 18 residing with a parent or other person having custody or in the process of securing legal custody of the individual or individuals or residing with the designee of the parent or other person having or securing custody, with the written permission of the parent or other person. For purposes of this definition, "parent" includes a person who is pregnant.

*Gender identity/expression.* 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, expression, or behavior is different from that traditionally associated with the person's sex at birth as being either female or male.

*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.

*Labor organization.* Includes an organization of any kind, an agency or employee representation

committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employees concerning grievances, labor disputes, wages, rate of pay, hours, or other terms or conditions of employment.

*Marital status.* The state of being married, unmarried, divorced or widowed.

*Minority.* A person who is Black or African American, Native American, or Alaskan native, Hispanic or Latino, Asian, Native Hawaiian or other Pacific Islander.

*Perceived.* To regard or attain awareness or understanding of something through one's perception or senses. As used in this chapter, the word 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. For example, a perceived disability is one where the person who takes action perceives the person against whom such action is taken as having a disability, regardless of whether the person against whom such action is taken has a disability or regards himself or herself as having a disability.

*Person.* Shall mean an individual, organization, corporation, limited liability company, partnership or other unincorporated or incorporated public or private entity of any kind.

*Place of public accommodation.* An educational, governmental, health, entertainment, 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 general public, or which receives financial support through the solicitation of the general public or through governmental subsidy of any kind, but shall not mean any facility not open or accessible to the general public. By way of example, day care operations being conducted in a private home shall not be considered a place of public accommodation. Place of public accommodation does not include a facility operated by a religious organization or institution regardless of whether it is open or accessible to the public. Nothing in this definition shall be construed to limit any rights under the Michigan or United States Constitutions.

*Religious organization or institution.* A religious association, educational institution or society, which is, in whole or substantial part, owned, supported, controlled or managed by a particular religion whose purpose or character is directed toward the propagation of that particular religion and that has the inculcation of religious values as its purpose; primarily employs persons who share its religious tenets; and primarily serves persons who share its religious tenets or, on a charitable basis, the broader community. "Religious organization or institution" includes, but is not limited to, the following: churches, mosques, synagogues and other houses of worship; any subsidiary organizations; or educational institutions affiliated with, controlled, or managed by those houses of worship or with articles of incorporation, bylaws and other documents stating an intention to inculcate its religious tenets in students.

*Sexual orientation.* Male or female homosexuality, heterosexuality or bisexuality, by orientation or practice, whether past or present.

*Source of income.* Any legal source from which a person obtains money.

**Section 18-3. Discriminatory Housing Practices.**

- (1) No person shall discriminate in referring, leasing, selling, renting, showing, advertising, pricing, offering, inspecting, listing, or otherwise making available any housing facility or real property, including discrimination in providing information and receiving or communicating a bona fide offer on any housing facility or real property.
- (2) No person shall discriminate in (1) the application, conditions, or granting of mortgages or other financing or (2) the contracting of construction, rehabilitation, maintenance, repair, or other improvement of any housing facility or real property.
- (3) No person shall refuse to lend money for the purchase or repair of any housing facility or real property because of the location in the township of such housing facility or real property, except for legitimate non-discriminatory reasons related to actual risks associated with the housing facility or property itself, such as being within a floodplain.
- (4) No person shall promote any sale, rental, lease, sublease, exchange, transfer, or assignment of any housing facility or real property by representing that demographic changes are occurring or will occur in an area with respect to any illegitimate or discriminatory characteristics.
- (5) No person shall indicate, communicate, or otherwise represent to another person that any housing facility or real property or interest therein is not available for inspection, sale, rental, or lease, knowing in fact, it is available, including failing to make a person aware of a real property listing, refusing to permit inspection of housing facility or real property, and representing that a property or housing facility has been sold when, in fact, it has not.

**Section 18-4. Discriminatory Public Accommodation Practices.**

- (1) 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.
- (2) 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.
- (3) No person shall print, calculate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service will be refused, withheld from, or denied an individual because of actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, disability, source of income, familial status, sexual orientation, genetic information or gender identity/expression or any protected status or use by an individual of adaptive devices or age, or that individuals patronage of, or presence at a

place of public accommodation, is objectionable, unwelcome, unacceptable, or undesirable because of actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, disability, source of income, familial status, sexual orientation, genetic information or gender identity/expression.

- (4) This chapter shall not apply to a private club or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the private club or establishment are made available to the customers or patrons of another establishment that is a place of public accommodation, or if it is licensed, chartered, or certified by the state or any of its political subdivisions.

### **Section 18-5. Discriminatory Employment Practices.**

- (1) It is unlawful for an employer to:
- a. Limit, segregate, classify, fail or refuse to hire, to promote, to recruit, to discharge, or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment provided under Michigan law, including a benefit plan or system because of actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, disability, source of income, familial status, sexual orientation, genetic information or gender identity/expression.
  - b. Fail or refuse to hire, recruit, or promote, discharge or take other discriminatory action against an individual on the basis of any disabilities that are not directly related to the requirements of the specific job.
  - c. Fail or refuse to hire, recruit, or promote, discharge or take other discriminatory action against an individual when adaptive devices or aids may be utilized thereby enabling that individual to perform the specific requirements of the job.
  - d. Make, keep or use an oral inquiry, form of application, or record that elicits or attempts to elicit information concerning the actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, disability, source of income, familial status, sexual orientation, genetic information or gender identity/expression or because of the use by an individual of adaptive devices or aids except where required under federal and state law, or local ordinance.
- (2) An employer, labor organization, or employment agency shall not print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or sign relating to employment by the employer, or relating to membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by the employment agency, which indicates a preference, limitation, specification, or discrimination, based on actual or perceived race, color, religion, national

origin, sex, age, height, weight, marital status, disability, source of income, familial status, sexual orientation, genetic information or gender identity/expression or the need for any reasonable accommodations, including but not limited to the use by an individual of adaptive devices or aids.

- (3) A person subject to this section may apply to the committee for an exemption on the basis that actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, disability, source of income, familial status, sexual orientation, genetic information or gender identity/expression, is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise. Upon sufficient showing, the committee may grant an exemption to this section. An employer who does not obtain an exemption for such bona fide occupational qualification shall have the burden of establishing that the qualification is reasonably necessary to the normal operation of the business.
- (4) This section shall not apply to the employment of an individual by his/her parent, spouse, or child.

#### **Section 18-6. Other Prohibited Practices.**

- (1) No person shall adopt, enforce or employ any policy or requirement, publish, post or broadcast any advertisement, sign or notice which discriminates or indicates discrimination in providing housing, employment or public accommodations.
- (2) No agent, broker, labor union, 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 any such person found responsible for a violation of this Chapter shall be made to the applicable licensing or regulatory agency for such person or business.
- (3) 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 chapter, nor require, request, conspire with, assist or coerce another person to retaliate against a person for making a complaint or assisting in an investigation.
- (4) No person shall knowingly conspire with, assist, coerce or request another person to discriminate in any manner prohibited by this chapter.
- (5) No person shall provide false or misleading information to any authorized person investigating a complaint regarding a violation or alleged violation of this chapter, or sign a complaint for a violation of this chapter based upon false or substantially misleading information.

- (6) 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, marital status, disability, source of income, familial status, sexual orientation, genetic information or gender identity/expression for a person to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a 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

### **Section 18-7. Exceptions.**

Notwithstanding anything contained in this chapter, the following practices shall not be violations of this chapter.

- (1) For a religious organization or institution to (a) restrict access or use of any of its facilities it operates; (b) to restrict employment opportunities for officers, religious instructors, staff and clergy; or (c) restrict membership or benefits of membership.
- (2) For the owner of an owner-occupied single-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.
- (3) To limit occupancy in a housing facility or housing project or to provide public accommodations or employment privileges or assistance to persons of low income, over 55 years of age or who are disabled.
- (4) To engage in a bona fide effort to establish an affirmative action program to improve opportunities in employment for minorities or women.
- (5) To discriminate based on actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental limitation, source of income, familial status, sexual orientation, genetic information or gender identity/expression when such discrimination is permitted or required by Michigan, Federal, or local law under principles of preemption.
- (6) To refuse to enter into a contract with an un-emancipated minor.
- (7) To refuse to admit to a place of public accommodation serving alcoholic beverages a person under the legal age for purchasing alcoholic beverages.

- (8) To refuse to admit persons under eighteen (18) years of age to a business providing entertainment or selling literature or other items which the operator of said business deems unsuitable for minors.
- (9) For an educational institution to limit the use of its facilities to those affiliated with such institution.
- (10) To provide discounts on products or service to students, minors and senior citizens, or members of an organization.
- (11) To discriminate in any arrangement for the sharing of a dwelling unit, including a rental dwelling as that term is defined in Section 101A-2.
- (12) To restrict use of lavatories and locker room facilities on the basis of sex.
- (13) 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.
- (14) To restrict participation in an instructional program, athletic event or on an athletic team on the basis of age or sex.

#### **Section 18-8. Nondiscrimination By Township Contractors.**

- (1) A written contract to which the township, a political subdivision, or an agency thereof, is a party shall contain a covenant by the contractor and his/her subcontractors not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, including a benefit plan or system or a matter directly or indirectly related to employment, because of actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, disability, source of income, familial status, sexual orientation, genetic information or gender identity/expression or use by an individual of adaptive devices or aids. Breach of this covenant may be regarded as a material breach of the contract.
- (2) This section is also applicable to labor organizations, employment agencies, apprenticeships, and job training programs. In addition, a labor organization shall not discriminate in its membership practices nor fail to fairly represent its membership in a grievance process because of actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, disability, source of income, familial status, sexual orientation, genetic information or gender identity/expression or use by an individual of adaptive devices or aids.

#### **Section 18-9. Complaints.**

- (1) If any individual has a complaint alleging a violation of this chapter, he/she has sixty (60) calendar days from the date of the individual's knowledge of the allegedly discriminatory action or sixty (60) calendar days from the date when the individual should have known of the alleged discriminatory action to file a complaint with the Complaint Review Committee. If an individual fails to file a complaint alleging a violation of this chapter within the specified time frame, the Complaint Review Committee will not consider the complaint.
- (2) The complaint must be made in writing to the Township Supervisor or his/her designee. The complaint may be filed in person, by e-mail, or by mail. The complaint must contain information about the alleged discrimination, such as the name, address, and phone number of the complainant, as well as the location, date and description of the alleged violation of this chapter.
- (3) Upon receipt, the Township Supervisor or his/her designee shall forward a copy to the Board of Trustees (for informational purposes only) and call a meeting of Complaint Review Committee who shall:
  - a. Review the complaint and determine whether it needs to be referred to a State or Federal agency.
  - b. Provide an opportunity for the Complainant and the Respondent to address the allegations.
  - c. Provide a copy of the complaint to the Township Attorney for investigation and prosecution, if warranted, within 90 days of receipt of the complaint. The Township Attorney may commence a civil action to obtain injunctive relief to prevent discrimination prohibited by this chapter, to reverse the effects of such discrimination or to enforce a conciliation agreement. If additional time is necessary, the Complaint Review Committee will notify the complainant of the need for additional time.
- (4) All communications with the complainant regarding actions taken or additional time being needed will be in writing, with a copy to the Township Attorney. The Township Attorney will notify the Township in writing of actions taken by the Township Attorney's office on complaints referred to that office by the Township.
- (5) No individual shall provide false information to any authorized individual investigating a complaint regarding a violation of this chapter.
- (6) For an investigation, the Complaint Review Committee or the Township Attorney may request a person to produce books, papers, or records or other documents that may be relevant to a violation or alleged violation of this chapter. If said person does not comply

with such a request, the Township Attorney may apply to the Ingham County Circuit Court for an order requiring production of said materials.

### **Section 18-10. – Conciliation Agreements.**

In cases involving alleged violations of this chapter, the Complaint Review Committee or the Township Attorney may enter into agreements whereby persons agree to methods of terminating discrimination or to reverse the effects of past discrimination. The Complaint Review Committee shall review all agreements. Conciliation agreements may be approved by the Board of Trustees of the Charter Township of Lansing. Violations of such agreements shall be violations of this chapter.

### **Section 18-11. - Penalties.**

- (1) A violation of any provision of this chapter is a civil infraction punishable by a fine as established by resolution of the Township Board and all other penalties permitted in accordance with the Municipal Civil Infractions Act, MCL 600.8727, et seq. as amended. A civil infraction may be issued by the Township Supervisor or his/her designee on behalf of the individual alleging discrimination.
- (2) Each day upon which a violation occurs shall constitute a separate and new violation.
- (3) Nothing contained in this ordinance shall be construed to limit in any way the remedies, legal or equitable, which are available to the Township or any person for the prevention or correction of discrimination.

2. Severability. If a court of competent jurisdiction declares any provision of this Ordinance, or a statutory provision referred to or adopted by reference herein, to be unenforceable, in whole or in part, such declaration shall only affect the provision held to be unenforceable and shall not affect any other part or provision. Provided, however, that if a court of competent jurisdiction declares a penalty provision to exceed the authority of the Township, the penalty shall be construed as the maximum penalty that is determined by the court to be within the authority of the Township to impose.

3. Repeal. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed; provided that any violation charged before the effective date of this Ordinance under an ordinance provision repealed by this Ordinance shall continue under the ordinance provision then in effect.

4. Effective Date. This Ordinance shall take effect thirty (30) days following its adoption and publication as required by law.

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Dion'trae Hayes, Supervisor  
Charter Township of Lansing

I, Susan L. Aten, Clerk of the Charter Township of Lansing, hereby certify that the foregoing is a true copy of the original of Ordinance No. 74, enacted by the Charter Township of Lansing Board of Trustees at a regular meeting on \_\_\_\_\_, 2018.

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Susan L. Aten, Clerk  
Charter Township of Lansing