

## Tacoma Municipal Code

(e) Unforeseen opportunities not included in the Municipal Art Program may be presented by the Tacoma Art Commission to the Council for approval.

(f) The planning for the inclusion of art shall occur at the earliest stage of a project and costs can be incurred for planning and design prior to the fund transfer using funds from the Municipal Art Fund or an interfund loan.

(g) The Tacoma Art Commission shall ensure that projects generated by the Municipal Art Program include the services of Tacoma artists.

2. Project Management: The Tacoma Art Commission shall establish an ad hoc art committee to include citizens, facility users, and client department management to select, advise, and work closely with the artist during development of each art project.

L. General obligation bond proceeds. In the case of any City construction project which involves the use of General Obligation Bond proceeds, the resolution(s) or ordinance(s) submitted to the voters or the Council shall include an allocation for public art equal to 1 percent of the eligible project cost. Bond proceeds shall be accounted for separately or within the Municipal Art Fund, if necessary, to comply with these requirements.

M. Severability. If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the chapter or the application or the provisions to other persons or circumstances. (Ord. 26581 § 13; passed Mar. 7, 2000)

## Chapter 1.29

### HUMAN RIGHTS COMMISSION

#### Sections:

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#### 1.29.010 Findings.

In response to the problem of unlawful discrimination, the City Council of the City of Tacoma hereby finds that unlawful discrimination on the basis of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability is inimical to the public welfare and good order of the City of Tacoma. The City Council accordingly finds it necessary, in the exercise of its police powers for the protection of the public health, safety, and welfare, to prohibit such discrimination and to initiate action for the remedy and prevention of unlawful discriminatory acts. Pursuant to this finding, and in accordance with the City of Tacoma's policy of providing and assuring equal opportunity for all Tacoma residents in the areas of employment, education, credit, insurance, access to public accommodations, and the acquisition of real property, the City Council, in order to effect this policy and to achieve the City's goal of eliminating unlawful discrimination, hereby creates and empowers a commission to study and investigate problems of prejudice, bigotry, and discrimination,

and to encourage and coordinate the implementation of programs consistent with the needs and the rights of all residents of the City of Tacoma. The Council also hereby establishes an administrative agency to support and assist this commission and to be responsible for the monitoring and enforcement of anti-discrimination ordinances and resolutions within the City. (Ord. 25352 § 1; passed Aug. 31, 1993)

### **1.29.020 Creation of a Human Rights Commission.**

There is hereby established a commission, to be known as the Human Rights Commission of the City of Tacoma (hereinafter referred to as the "Commission"), consisting of 15 members representative of the general public; high school youth; employer groups; the housing industry; and labor, religious, racial, ethnic, disabled, and women's groups in the City, to be nominated and appointed in accordance with City Council rules and procedures.

A. Duties and Powers of the Commission. The Commission shall have the duty and power to:

1. Initiate complaints charging unlawful practices as set forth in this chapter; provided, that no such action shall be taken with respect to any complaint within the exclusive jurisdiction of any state or federal agency. Each Commissioner shall have the power to initiate a complaint, whether or not such Commissioner is aggrieved, subject to approval by the Commission.
2. Review and act upon case closures as recommended by the department staff, petitions for reconsideration and/or conciliation agreements.
3. Study, investigate, mediate, and hold public meetings on community-wide problems arising in the City of Tacoma which may result in inter-group tensions or discrimination, including race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability, and make such technical studies as are appropriate to effectuate the purpose and policies of this chapter.
4. Consult with and maintain contact with other public agencies, civil rights organizations, representatives of employers, labor unions, property owners, associations, realtor associations, religious denominations and institutions, professional associations, national origin groups, community organizations concerned with interracial, inter-religious and inter-cultural understanding, social welfare organizations, and any other such organizations and institutions as directed by the City Council or as the Commission shall deem advisable to further the objectives of this chapter.

5. Cooperate with and make written recommendations to the Mayor, City Council, City Manager, and City department heads toward the development and implementation of programs and practices for the purpose of furthering the objectives of this chapter.

6. Form committees and subcommittees and appoint persons, in addition to members of the Commission, to such committees and subcommittees in order to assist the Commission in effectuating the purposes of this chapter.

7. Perform such other functions and duties as may be directed by the City Council or prescribed or authorized by any resolution or ordinance of the City.

In prescribing the above duties and functions of the Commission, it is not the intent of the Council to duplicate or overlap the functions, duties, or responsibilities heretofore or hereafter assigned to any department, board, or committee of the City or the responsibilities of the City Manager. Upon request, the Commission shall cooperate with, and render assistance and make recommendations to all public officials, departments, and public or private organizations or citizens.

8. The Commission is specifically authorized to adopt and promulgate interpretive rules, regulations, and guidelines to properly implement and administer the provisions hereof. Rules, regulations, and guidelines thus adopted shall be approved by resolution of the City Council of the City of Tacoma prior to their becoming effective.

9. The Commission is specifically authorized to make rules and regulations governing its organization and procedures which are not inconsistent with this chapter or any other chapter or section of the Official Code of the City of Tacoma.

B. Terms of Office of Commissioners. The term of office of all members of the Commission shall be three years, except for the high school youth member whose term of office shall be for a period no longer than two years or until graduation from high school or whichever occurs first; provided, that any individual appointed to fill a vacancy other than as the high school youth member, shall be appointed only for the unexpired term of the member whom he or she succeeds. Each member of the Commission shall serve only until the expiration of his/her individual term of office. To be eligible to serve as a Commissioner, the high school youth member must have served one year as a student intern of the commission, be in either their junior or senior year of high school, and shall maintain their status as a high school student during their term. Failure to maintain their status as a high school student shall act as a

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forfeiture of the high school youth member's Commission position. Any member of the Commission may be removed by the Mayor and Council for misconduct or malfeasance in office after being given a written statement outlining such behavior and an opportunity to be heard thereon.

C. Termination of Commissioners for Absence. The appointment of any member of the Commission who has been absent from three consecutive regular or special meetings of the Commission without approval of said Commission shall automatically terminate. The City Clerk shall notify any member whose appointment has automatically ended and report to the appointing authority that a vacancy exists on said Commission and that an appointment should be made for the unexpired term. The Commission shall have the power and authority to excuse any member from attendance at any regular business meeting or study session for good cause. The Commission shall also have the power and authority to create and execute a more rigid standard of attendance should a majority of Commission members deem such standard necessary for the effective functioning of the Commission.

D. Commission Officers. The Commission shall elect one of its members as Chairperson and one of its members as Vice-Chairperson, each of whom shall hold office for a period of one year or until his/her successor is duly elected, unless his/her term as a member of the Commission expires sooner.

E. Commission Meetings and Procedures. The Commission shall establish a regular time and place of meeting and shall hold at least one regular meeting each month. Special study sessions may be called by the Chairperson or by a simple majority of the Commission members. Personal notice of all special study sessions shall be given to all Commission members by mail or by telephone at least 24 hours prior to the start of such study session.

1. Quorum of the Commission. A simple majority of those Commission members duly appointed and acting in office at any given time shall constitute a quorum of the Commission at that time. An affirmative vote of at least a majority of those Commissioners present at any given meeting is required to take any official action at such meeting; provided, that a majority vote of the entire Commission shall be required for a finding or decision of the Commission.

2. Commission Public Meetings. All regular, special, and business meetings of the Commission shall be held in strict accordance with and pursuant to any and all applicable State laws as the same now exist, or as hereafter amended, with respect to open and

public meetings. (Ord. 25617 § 1; passed Nov. 1, 1994; Ord. 25352 § 1; passed Aug. 31, 1993)

### **1.29.030 Creation of the Human Rights and Human Services Department.**

There is hereby established an administrative agency, to be known as the Human Rights and Human Services Department of the City of Tacoma (hereinafter referred to as the "Department").

A. Responsibilities of the Human Rights and Human Services Department. In accordance with all appropriate local, state, and federal laws, and within the legal geographic boundaries of the City of Tacoma, the Department shall:

1. Receive and conduct impartial investigations of complaints that have been filed by individuals who believe they have been discriminated against due to their race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability; and seek the satisfactory adjustment of such complaints; provided, that no such action shall be taken with respect to any complaint within the exclusive jurisdiction of any state or federal agency.
2. Conduct fact-finding conferences; through the City Attorney, subpoenaing witnesses and such books, papers, records, files, etc., as are deemed necessary during an investigation, and requiring and compelling the attendance and testimony of such witnesses and the production of such books, papers, records, files, etc., for examination and reproduction; making findings of fact; publishing such findings as appropriate; and doing all things necessary and proper for the enforcement of this chapter.
3. Notify all appropriate parties to the charge of the decisions rendered as a result of the Department's investigation.
4. Make recommended findings to the Commission based upon its finding of fact as discovered through investigation. If it is discovered that an unlawful violation has occurred, and efforts to conciliate the matter fail, it may be necessary to forward the case to the City's Hearing Examiner for a public hearing.
5. Prepare and disseminate educational and informational material relating to prejudice and discrimination and ways and means of eliminating such prejudice and discrimination.
6. Cooperate with, and provide information, guidance, and technical assistance to, other public agencies and to private persons, organizations, and institutions engaged in activities and programs intended to eliminate prejudice and discrimination.

7. Consult with, and maintain contact with, other public agencies, civil rights organizations, representatives of employers, labor unions, property owners, associations, realtor associations, religious denominations and institutions, professional associations, national origin groups, community organizations concerned with interracial, inter-religious and inter-cultural understanding, social welfare organizations, and any other such organizations and institutions as directed by the City Council or as the Commission shall deem advisable to further the objectives of this chapter.

B. Human Rights Commission/Department Executive Director. To assist the Commission in the performance of its duties, there is hereby created and established in the unclassified service of the City of Tacoma the position of Executive Director to the Human Rights Commission, which position shall be filled by appointment by the City Manager pursuant to the Tacoma Municipal Code. The Executive Director shall receive such salary and be entitled to such benefits as the Council of the City of Tacoma may prescribe. Among other things, it will be the duty of the Executive Director to: send all notices to Commission members; keep and maintain all minutes, documents, and other papers of the Commission; comply with all assignments the Commission may make in the conduct of its business; and perform such other specific tasks and assignments concerning human rights as may be requested by the City Manager. Unless specifically provided otherwise, all duties and powers assigned to the Executive Director may be delegated by the Executive Director. The Executive Director of the Commission will also function as the Executive Director of the Human Rights and Human Services Department and will be responsible for the management and day to day operations of the Department.

C. Subpoena power. Subpoenas issued under this section shall be prepared and signed under the direction of the City Attorney. No person shall be excused from attending fact-finding conferences and testifying or from producing records, correspondence, documents, or other evidence in obedience to the subpoena on the ground that the testimony or evidence required may tend to incriminate or to subject such person to a penalty or forfeiture. However, no person shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which testimony is compelled after such person has claimed a privilege against self-incrimination, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity

herein provided shall extend only to natural persons compelled to testify.

In case of contumacy or refusal to obey a subpoena issued to any person, the Department may, through the City Attorney, petition the Superior Court to issue to such person a subpoena requiring such person to appear before the Commission, its member, agent, or staff, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question. Failure to obey a subpoena of the Superior Court may be punished by the Court as a contempt thereof. (Ord. 26386 § 7; passed Mar. 23, 1999; Ord. 25352 § 1; passed Aug. 31, 1993)

#### **1.29.040 Definitions.**

As used in this chapter:

A. The term "protected class status" refers to those characteristics specified by law (race, sex, religion, etc.). A person's "protected class status" is that individual's particular characteristic within a class. For example, "sex" is a protected class under which a man's protected class status would be "male" and a woman's protected class status would be "female."

B. The term "person" includes one or more individuals, partnerships, associations, organizations, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, 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 agency or instrumentality of the City.

C. The term "Commission" means the Human Rights Commission of the City of Tacoma, Washington, herein created.

D. The term "Department" means the Human Rights and Human Services Department of the City of Tacoma, Washington, herein created.

E. The term "employer" includes any person, as hereinabove defined, acting in the interests of an employer, directly or indirectly, or who has any persons in his, her, or its employ (exclusive of the parents, spouse, or children of such person), including the City of Tacoma, its departments, boards, commissions, and authorities, and any other governmental agency within its jurisdiction.

F. The term "employee" shall mean any person acting in the employ of an employer as hereinabove defined, but such term shall not include any individual employed by his/her parent, spouse, or child.

G. The term "labor organization" includes any organization which exists, in whole or in part, for the

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purpose of dealing with employers concerning grievances or the terms and conditions of employment, or for other mutual interests or protection in connection with any employment.

H. The term "employment agency" includes any person undertaking, with or without compensation, to recruit, procure, refer, or place employees for an employer.

I. The term "educational institution" includes any public or private school or training center, except those affiliated with a bona fide religious institution, which may give preference to members of that religious group in selecting its students.

J. The term "national origin" refers to one's real or perceived ancestry, heritage, background, or customs that indicate an individual or the individual's forbears came from a particular country.

K. The term "owner" means any person, including managing agents, having the right of ownership or possession, or the right to sell, rent, lease, or sublease any real property.

L. The term "real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, or any interest in such real property as defined herein; provided, however, that nothing herein contained shall be construed to include or apply to any columbarium, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution.

M. The term "real estate transaction" includes the sale, exchange, purchase, rental, lease, or sublease of real property.

N. The term "charging party" shall include any individual alleging on his/her own behalf to have been personally aggrieved by an unlawful discriminatory practice. Additionally, the Commission may initiate a charge alleging that an unlawful discriminatory act has been committed against a class of persons.

O. The term "respondent" includes any person or entity against whom a complaint or charge of unlawful practice is filed with the Commission.

P. The term "public accommodation" includes any establishment which caters or offers its services, facilities, or goods to the general public.

Q. The term "financial institution" includes any person or organization which participates in any open-end or closed-end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a

service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to: banks, savings and loan associations, or other financial lending institutions of whatever nature; stockbrokers; merchant or mercantile establishments; or owners of real property who, as part of their ordinary business, permit or provide that payment for purchases of property or service therefrom may be deferred.

R. The term "people with disabilities" means the presence of any physical, sensory, or mental impairment which substantially limits one or more major life activities (e.g., self care, ambulation, communication, transportation, education, socialization, and employment), but does not prevent the proper performance of the particular worker's job duties.

S. The term "the presence of a sensory, mental, or physical disability" includes, but is not limited to, circumstances where a physical, sensory, or mental condition:

1. Is medically cognizable or diagnosable;
2. Exists as a record or history; or
3. Is perceived to exist, whether or not it exists in fact.

The term "disability" is further defined by the following:

1. "Physical Disability": A significant impairment to the function or appearance of a person's body.
2. "Sensory Disability": A substantial reduction in visual acuity, hearing, or cutaneous sensation.
3. "Mental Disability": An impairment to the normal processes of thought, communication, or learning ability which is substantial in degree, including impairment of intelligent reasoning, organic brain disorders, and psychoneurotic disorders as medically diagnosed. The condition of being or having been addicted to the use of alcohol or drugs does qualify, unless individuals are currently engaged in the illegal use of drugs.

T. The term "age" refers to the number of years since one's birth and only individuals over the age of forty are considered as a protected class.

U. The term "marital status" means the state of being unmarried, married, divorced, separated, or widowed.

V. The term "negotiated settlement" means a signed agreement between the charging party and the respondent in a particular case prior to a finding on

the merits of the charge. The Commission may also be signatory to such an agreement.

W. The term "conciliation" means a written settlement generally providing full relief for the charging party after a determination of reasonable cause has been accepted. Such agreement requires the signatures of the respondent and a Commission representative. The charging party shall be signatory to such an agreement.

X. The term "reasonable cause" means that a determination has been made that the evidence produced by the staff's investigation is sufficient to support a reasonable conclusion that unlawful discrimination has occurred or is occurring. Such determination allows for the continuance of the administrative process including, but not limited to, attempts at conciliation.

Y. The term "no reasonable cause" means that a determination has been made that there was insufficient evidence produced by the staff's investigation to support a reasonable conclusion that unlawful discrimination has occurred or is occurring. Such determination completes the administrative process unless the charging party petitions the commission for reconsideration in writing and provides new evidence not previously considered in the course of the investigation.

Z. The term "familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with:

1. A parent or another person having legal custody of such individual or individuals; or
2. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

AA. The term "bona fide occupational qualification (BFOQ)" refers to an exception when discrimination is legal where it is reasonably necessary to the normal operation of the employer's business (e.g., a Methodist church would not be discriminating if it refused to hire a Lutheran minister).

BB. The term "business necessity" refers to a policy or practice of screening potential employees on a criterion necessary for the safe and efficient operation of the business. Such a policy or practice is legal if it can be demonstrated to be job-related, to be effective in predicting employee performance, and if

there is no acceptable alternative which would have less adverse impact on the class protected by law.

Nothing contained herein shall be construed to include or apply to an institute, bona fide club, or place of accommodation which by its nature is distinctly private, including fraternal organizations; although, where public use is permitted, that use shall be covered by this chapter; nor shall anything contained herein apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution with respect to its religious activity.

CC. The term "youth," for purposes of appointment to the Tacoma Human Rights Commission, shall mean an individual who is 18 years of age or younger at the time of their appointment, and who is attending a regular or alternative high school. (Ord. 26386 § 8; passed Mar. 23, 1999; Ord. 25617 § 2; passed Nov. 1, 1994; Ord. 25474 § 1; passed Apr. 12, 1994; Ord. 25352 § 1; passed Aug. 31, 1993)

#### **1.29.050 Unlawful discriminatory employment practices.**

The exclusion of a person from, or failure or refusal to extend to a person, equal opportunities because of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability is hereby declared to be an unlawful discriminatory practice. Unlawful discriminatory practices shall include, but are not limited to, the following:

A. Employers. It is an unlawful discriminatory practice for any employer to:

1. Fail or refuse to hire or to discharge an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability, unless based upon a bona fide occupational qualification; provided, however, that the prohibition against discrimination because of a sensory, mental, or physical disability shall not apply if such disability prevents the safe and competent job performance of the particular worker involved; provided, further, that it shall not be an unlawful practice for a bona fide religious denomination or institution to limit the hiring of employees who will perform religious duties to those persons who are members or followers of such religious denomination, institution, or faith.
2. Limit, segregate, or classify employees in any way which would deprive or tend to deprive an individual

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of employment opportunities, or otherwise adversely affect that individual's status as an employee because of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability; provided, however that it shall not be an unlawful practice for an employer to segregate washrooms or locker facilities on the basis of sex, unless there is only one such facility on the premises.

3. Confine or limit recruitment or hiring of employees, with intent to circumvent the spirit and purpose of this chapter, to any employment

agency, employment service, labor organization, training school, training center, or any other employee-referring source which serves persons who are predominantly of the same race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or free of the presence of any sensory, mental, or physical disability.

4. Require of any applicant for employment any information concerning race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability unless based upon a bona fide occupational qualification; provided, however, that this section shall not be construed in any way to preclude or limit the applicability of appropriate affirmative action programs to the extent to which such information may be required by these programs. Nothing in this section shall be interpreted to mean that employers shall be required to establish employment goals or affirmative action goals based on familial status. (Ord. 25352 § 1; passed Aug. 31, 1993)

### **1.29.060 Additional unlawful discriminatory practices.**

The exclusion of a person from, or failure or refusal to extend to a person, equal opportunities because of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability is hereby declared to be an unlawful discriminatory practice. Unlawful discriminatory practices shall include, but are not limited to, the following:

A. **Financial Institutions.** It is an unlawful discriminatory practice for a financial institution or any person employed by or acting on behalf of a financial institution:

1. To discriminate against any person because of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability in granting, withholding, extending, modifying, or

renewing the rates, terms, conditions, privileges, or other provisions of financial assistance or in the extension of credit or services in connection therewith.

2. To use a form of application for financial assistance or credit or make or keep a record of inquiry in connection with applications for financial assistance or credit which indicates directly or indirectly a limitation, specification, or discrimination as to race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability or an intent to make such a limitation, specification, or discrimination.

For purposes of this subsection A, rates and terms of financial assistance or credit may vary from the norm for persons possessing a sensory, mental, or physical disability, if the variance is based upon bona fide differentials derived from legitimate actuarial data.

B. **Credit Transactions.** It is an unfair practice for any person, whether acting for himself or another, in connection with any credit transaction, because of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability to:

1. Deny credit to any person.
2. Increase the charges or fees for or collateral required to secure any credit extended to any person.
3. Restrict the amount or use of credit extended or to impose different terms or conditions with respect to the credit extended to any person or any item or service related thereto.

Nothing in this subsection B shall prohibit any party to a credit transaction from considering the credit history of any individual applicant or the application of the community property law to the individual case, or from taking reasonable action thereon.

C. **Labor Organizations.** It is an unlawful discriminatory practice for a labor organization to:

1. Exclude or expel from its membership or otherwise to discriminate against any member or applicant for membership because of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability.
2. Limit, segregate, or classify its membership or to classify or fail or refuse to refer for employment any person in any way which would deprive or tend to deprive that person of employment opportunities or otherwise adversely affect that person's status as an employee or as an applicant for employment because of race, religion, color, national origin or ancestry,

sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability.

3. Cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. Discriminate against any person or to limit, segregate, or qualify its membership in any way which would adversely affect that person's hours, tenure, compensation, promotion, discharge, or any other terms, conditions, or privileges directly or indirectly related to employment because of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability.

5. Deny to, or withhold from, any person the right to be admitted to or to participate in a guidance program, apprenticeship program, on-the-job training program, or any other occupational training program because of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability; provided, however, that the prohibition against discrimination because of a sensory, mental, or physical disability shall not apply if such disability prevents competent and safe participation in such training programs.

D. **Employment Agencies.** It is an unlawful discriminatory practice for an employment agency to refuse to refer for employment or otherwise discriminate against any person because of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability.

E. **Advertising.** It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training programs to print or publish or cause to be published any notice or advertisement relating to employment, training, or apprenticeship opportunities which indicates any preference, limitation, or discrimination based on race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability; unless based upon a bona fide occupational qualification; provided, however that nothing herein contained shall be construed to prohibit advertising in a foreign language.

F. **Educational Institutions.** It is an unlawful discriminatory practice for any educational institution to deny admittance to any prospective student or enrollee, or to deny any service offered by such

institution to any person otherwise qualified for such service on the grounds of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability; provided, however, that any private school or training center affiliated with a bona fide religious institution, in the selecting of students, may give preference to members of the religious faith or denomination associated with said institution.

G. **Insurance Transactions.** It is an unlawful practice for any person, whether acting for themselves or another, in connection with any insurance transaction, to fail or refuse to issue or renew insurance to any person because of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or presence of any sensory, mental, or physical disability; provided, however that for the purposes of this subsection G, it shall not be an unlawful discriminatory practice to differentiate in the availability, terms, and rates based upon the above-listed characteristics if such differentiation is derived from legitimate actuarial data.

H. **Public Accommodations.** It is an unlawful discriminatory practice for a person to deny to any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement, on the grounds of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental, or physical disability; provided, however, that nothing herein contained shall be construed to include or apply to a bona fide club or place of accommodation which, by its nature, is distinctly private, including fraternal organizations, although where public use or service is involved, the provisions of this chapter shall apply; nor shall anything herein contained apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution.

I. **Retaliation.** It is an unlawful practice for any employer, employment agency, labor union, property owner, or financial institution to discharge, expel, penalize, or otherwise discriminate against any person because that person has opposed any practice forbidden by this chapter, whether or not such practice in fact exists, or because that person has filed a charge, testified, or assisted in any proceeding under this chapter.

J. **Discrimination by Association.** It is an unlawful practice to discriminate against any person due to his/her relationship or association with another person protected by this chapter.

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K. Americans with Disabilities Act. It is an unlawful practice to discriminate in employment, public accommodation or housing against qualified individuals with disabilities. (Ord. 25352 § 1; passed Aug. 31, 1993)

### **1.29.070 Liberal construction.**

The provisions of this chapter shall be liberally construed in order to effectuate their purpose. (Ord. 25352 § 1; passed Aug. 31, 1993)

### **1.29.080 Severability.**

If, for any reason, any section, subsection, sentence, clause, or phrase of this chapter is held to be unconstitutional or void, such decision shall not affect the validity of any of the remaining portions of this chapter. (Ord. 25352 § 1; passed Aug. 31, 1993)

### **1.29.090 Savings clause.**

The provisions of this chapter, insofar as they are the same as those of the chapter repealed hereby, are intended as a continuation of such chapter and not as new enactments. The enactment of this chapter shall not affect any act done, or proceeding pending, under the authority of the repealed chapter. All rules and regulations adopted pursuant to any chapter repealed by this chapter shall continue with the same force and effect as if such chapter had not been repealed. (Ord. 25352 § 1; passed Aug. 31, 1993)

### **1.29.100 Unlawful discriminatory housing practices.**

The exclusion of a person from, or failure or refusal to extend to a person, equal opportunities because of race, religion, color, national origin or ancestry, sex, age, marital status, familial status, or the presence of any sensory, mental or physical disability is hereby declared to be an unlawful discriminatory housing practice. Unlawful housing discriminatory practices shall include, but are not limited to, the following:

(1) Refusal to sell or rent a dwelling after a bona fide offer has been made, or to negotiate for the sale or rental of a dwelling, because of race, color, religion, sex, familial status, marital status, age, or national origin, or discrimination in the sale or rental of a dwelling because of disability;

(2) Discrimination in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with sales or rentals, because of race, color, religion, sex, disability, familial status marital status, age, or national origin;

(3) Engaging in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of race, color,

religion, sex, disability, familial status, marital status, age, or national origin;

(4) Making, printing or publishing, or causing to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination because of race, color, religion, sex, disability, familial status, marital status, age, or national origin, or an intention to make any such preference, limitation or discrimination;

(5) Representing to any person, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin, that a dwelling is not available for sale or rental when such dwelling is in fact available;

(6) Engaging in blockbusting practices in connection with the sale or rental of dwellings because of race, color, religion, sex, disability, familial status, marital status, age, or national origin; and/or

(7) Denying access to or membership or participation in, or discriminating against any person in his or her access to or membership or participation in, any multiple-listing service, real estate brokers' association, or other service organization or facility relating to the business of selling or renting a dwelling or in the terms or conditions of membership or participation, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

Application of Chapter 1.29 of the City of Tacoma Law Against Discrimination, as amended, with respect to persons with disabilities is discussed in Section 1.29.060K.

#### **A. Unlawful to Sell or Rent or to Negotiate for the Sale or Rental.**

1. It shall be unlawful for a person to refuse to sell or rent a dwelling to a person who has made a bona fide offer, because of race, color, religion, sex, familial status, marital status, age, or national origin or to refuse to negotiate with a person for the sale or rental of a dwelling because of race, color, religion, sex, familial status, marital status, age, or national origin, or to discriminate against any person in the sale or rental of a dwelling because of disability.

2. Prohibited actions under this section include, but are not limited to:

a. Failing to accept or consider a bona fide offer because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

b. Refusing to sell or rent a dwelling to, or to negotiate for the sale or rental of a dwelling with, any person because of race, color, religion, sex,

disability, familial status, marital status, age, or national origin.

3. Because of race, color, religion, sex, disability, familial status, marital status, age, or national origin, imposing upon any person different sales prices or rental charges for the sale or rental of a dwelling.

4. Using different qualification criteria or applications, or sale or rental standards or procedures, such as income standards or procedures, application requirements, application fees, credit analysis, sale or rental approval procedures, or other requirements, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

5. Evicting tenants because of their race, color, religion, sex, disability, familial status, marital status, age, or national origin or because of the race, color, religion, sex, disability, familial status, marital status, age, or national origin of a tenant's guest.

**B. Discrimination in Terms, Conditions and Privileges, and in Services and Facilities.**

1. It shall be unlawful, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin, to impose different terms, conditions or privileges relating to the sale or rental of a dwelling or to deny or limit services or facilities in connection with the sale or rental of a dwelling.

2. Prohibited actions under this section include, but are not limited to:

a. Using different provisions in leases or contracts of sale, such as those relating to rental charges, security deposits and the terms of a lease and those relating to down payment and closing requirements, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

b. Failing or delaying maintenance or repairs of sale or rental dwellings because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

c. Failing to process an offer for the sale or rental of a dwelling or to communicate an offer accurately because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

d. Limiting privileges or the use of services or facilities associated with a dwelling because of race, color, religion, sex, disability, familial status, marital status, age, or national origin of an owner, tenant or a person associated with him or her.

e. Denying or limiting services or facilities in connection with the sale or rental of a dwelling,

because a person failed or refused to provide sexual favors.

**C. Other Prohibited Sale and Rental Conduct.**

1. It shall be unlawful, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin, to restrict or attempt to restrict, by word or conduct, the choices of a person in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development.

2. It shall be unlawful, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin, to engage in any conduct relating to the provision of housing, or of services and facilities in connection therewith, that otherwise makes unavailable or denies dwellings to persons.

3. Prohibited actions under paragraph 1 of this subsection, which are generally referred to as unlawful steering practices, include, but are not limited to:

a. Discouraging any person from inspecting, purchasing or renting a dwelling because of race, color, religion, sex, disability, familial status, marital status, age, or national origin, or because of the race, color, religion, sex, disability, familial status, marital status, age, or national origin of persons in a community, neighborhood or development.

b. By exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or a community, neighborhood, or development, discouraging the purchase or rental of a dwelling because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

c. Communicating to any prospective purchaser that he or she would not be comfortable or compatible with existing residents of a community, neighborhood or development because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

d. Assigning any person to a particular section of a community, neighborhood or development, or to a particular floor of a building, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

4. Prohibited activities relating to dwellings under paragraph 2 of this subsection include, but are not limited to:

a. Discharging or taking other adverse action against an employee, broker or agent because he or she

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refused to participate in a discriminatory housing practice.

b. Employing codes or other devices to segregate or reject applicants, purchasers or renters; refusing to take or to show listings of dwellings in certain areas because of race, color, religion, sex, disability, familial status, marital status, age, or national origin; or refusing to deal with certain brokers or agents because they, or one or more of their clients, are of a particular race, color, religion, sex, disability, familial status, marital status, age, or national origin.

c. Denying or delaying the processing of an application made by a purchaser or renter or refusing to approve such a person for occupancy in a cooperative or condominium dwelling because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

d. Refusing to provide municipal services or property or hazard insurance for dwellings, or providing such services or insurance differently because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

### D. Discriminatory Advertisements, Statements and Notices.

1. It shall be unlawful to make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling which indicates any preference, limitation or discrimination because of race, color, religion, sex, disability, familial status, marital status, age, or national origin, or an intention to make any such preference limitation or discrimination.

2. The prohibitions in this section shall apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners, posters, billboards or any documents used with respect to the sale or rental of a dwelling.

3. Discriminatory notices, statements and advertisements include, but are not limited to:

a. Using words, phrases, photographs, illustrations, symbols or forms which convey that dwellings are available or not available to a particular group of persons because of race, color, religion, sex, disability, familial status, marital status, age, or national origin of such persons.

b. Expressing to agents, brokers, employees, prospective sellers or renters, or any other persons, a preference for or limitation on any purchaser or renter because of race, color, religion, sex, disability,

familial status, marital status, age, or national origin of such persons.

c. Selecting media or locations for advertising the sale or rental of dwellings which deny particular segments of the housing market information about housing opportunities because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

d. Refusing to publish advertising for the sale or rental of dwellings, or requiring different charges or terms for such advertising, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

### E. Discriminatory Representations on the Availability of Dwellings.

1. It shall be unlawful, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin, to provide inaccurate or untrue information about the availability of dwellings for sale or rent.

2. Prohibited actions under this section include, but are not limited to:

a. Indicating through words or conduct that a dwelling which is available for inspection, sale, or rent has been sold or rented, because of race, color, religion, sex, disability, familial status, marital status, age, or nation origin.

b. Representing that covenants or other deed, trust or lease provisions which purport to restrict the sale or rental of dwellings because of race, color, religion, sex, disability, familial status, marital status, age, or national origin preclude the sale or rental of a dwelling to a person.

c. Enforcing covenants or other deed, trust, or lease provisions which preclude the sale or rental of a dwelling to any person because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

d. Limiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale or rental, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

e. Providing false or inaccurate information regarding the availability of a dwelling for sale or rental to any person, including testers, regardless of whether such person is actually seeking housing, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

### F. Blockbusting.

1. It shall be unlawful, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, familial status, marital status, age, or national origin or with a disability.

2. In establishing a discriminatory housing practice under this section it is not necessary that there was in fact profit as long as profit was a factor for engaging in the blockbusting activity.

3. Prohibited actions under this section include, but are not limited to:

a. Engaging, for profit, in conduct (including uninvited solicitations for listings) which conveys to a person that a neighborhood is undergoing, or is about to undergo, a change in the race, color, religion, sex, disability, familial status, marital status, age, or national origin of persons residing in it, in order to encourage the person to offer a dwelling for sale or rental.

b. Encouraging, for profit, any person to sell or rent a dwelling through assertions that the entry or prospective entry of persons of a particular race, color, religion, sex, familial status, marital status, age, or national origin, or with disabilities, can or will result in undesirable consequences for the project, neighborhood or community, such as a lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.

G. Discrimination in the Provision of Brokerage Services.

1. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership or participation, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

2. Prohibited actions under this section include, but are not limited to:

a. Setting different fees for access to or membership in a multiple-listing service because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

b. Denying or limiting benefits accruing to members in a real estate brokers' organization because of race,

color, religion, sex, disability, familial status, marital status, age, or national origin.

c. Imposing different standards or criteria for membership in a real estate sales or rental organization because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

d. Establishing geographic boundaries or office location or residence requirements for access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin. (Ord. 25352 § 1; passed Aug. 31, 1993)

**1.29.110 Discrimination in residential real estate-related transactions.**

A. Discriminatory Practices in Residential Real Estate-Related Transactions. It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

B. Residential Real Estate-Related Transactions. The term "residential real estate-related transactions" means:

1. The making or purchasing of loans or providing other financial assistance:

a. For purchasing, constructing, improving, repairing or maintaining a dwelling; or

b. Secured by residential real estate; or

2. The selling, brokering or appraising of residential real property.

C. Discrimination in the Making of Loans and in the Provision of Other Financial Assistance.

1. It shall be unlawful for any person or entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available loans or other financial assistance for a dwelling, or which is or is to be secured by a dwelling, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

2. Prohibited practices under this section include, but are not limited to, failing or refusing to provide to any person, in connection with a residential real estate-related transaction, information regarding the

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availability of loans or other financial assistance, application requirements, procedures or standards for the review and approval of loans or financial assistance, or providing information which is inaccurate or different from that provided others, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

### D. Discrimination in the Purchasing of Loans.

1. It shall be unlawful for any person or entity engaged in the purchasing of loans or other debts or securities which support the purchase, construction, improvement, repair or maintenance of a dwelling, or which are secured by residential real estate, to refuse to purchase such loans, debts, or securities or to impose different terms or conditions for such purchases, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

2. Unlawful conduct under this section includes, but is not limited to:

a. Purchasing loans or other debts or securities which relate to, or which are secured by dwellings in certain communities or neighborhoods but not in others because of the race, color, religion, sex, disability, familial status, marital status, age, or national origin.

b. Because of race, color, religion, sex, disability, familial status, marital status, age, or national origin, pooling or packaging differently loans or other debts or securities which relate to, or which are secured by, dwellings.

c. Imposing or using different terms or conditions for the marketing or sale of securities issued on the basis of loans or other debts or securities which relate to, or which are secured by, dwellings because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

3. This section does not prevent consideration, in the purchasing of loans, of factors justified by business necessity, including requirements of Federal law, relating to a transaction's financial security or to protection against default or reduction of the value of the security. Thus, this provision would not preclude considerations employed in normal and prudent transactions; provided, that no such factor may in any way relate to race, color, religion, sex, disability, familial status, marital status, age, or national origin.

### E. Discrimination in the Terms and Conditions for Making Available Loans or Other Financial Assistance.

1. It shall be unlawful for any person or entity engaged in the making of loans or in the provision of other financial assistance relating to the purchase,

construction, improvement, repair or maintenance of dwellings or which are secured by residential real estate to impose different terms or conditions for the availability of such loans or other financial assistance, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

2. Unlawful conduct under this section includes, but is not limited to:

a. Using different policies, practices or procedures in evaluating or in determining creditworthiness of any person in connection with the provision of any loan or other financial assistance for a dwelling or for any loan or other financial assistance which is secured by residential real estate because of race, residential real estate because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

b. Determining the type of loan or other financial assistance to be provided with respect to a dwelling, or fixing the amount, interest rate, duration or other terms for a loan or other financial assistance for a dwelling or which is secured by residential real estate, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

### F. Unlawful Practices in the Selling, Brokering, or Appraising of Residential Real Property.

1. It shall be unlawful for any person or other entity whose business includes engaging in the selling, brokering or appraising of residential real property to discriminate against any person in making available such services, or in the performance of such services, because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

2. For the purposes of this section, the term "appraisal" means an estimate or opinion of the value of a specified residential real property made in a business context in connection with the sale, rental, financing or refinancing of a dwelling or in connection with any activity that otherwise affects the availability of a residential real estate-related transaction, whether the appraisal is oral or written, or transmitted formally or informally.

The appraisal includes all written comments and other documents submitted as support for the estimate or opinion of value.

3. Nothing in this section prohibits a person engaged in the business of making or furnishing appraisals of residential real property from taking into consideration factors other than race, color, religion, sex, disability, familial status, marital status, age, or national origin.

4. Practices which are unlawful under this section include, but are not limited to, using an appraisal of residential real property in connection with the sale, rental, or financing of any dwelling where the person knows or reasonably should know that the appraisal improperly takes into consideration race, color, religion, sex, disability, familial status, marital status, age, or national origin. (Ord. 25352 § 1; passed Aug. 31, 1993)

**1.29.120 Prohibition against discrimination because of disability.**

A. Definitions. As used in this section:

1. "Accessible," when used with respect to the public and common use areas of a building containing multifamily dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical disabilities. The phrase "readily accessible to and usable by" is synonymous with "accessible." A public or common use area that complies with the appropriate requirements of ANSI A117.1-1986 or a comparable standard is "accessible" within the meaning of this paragraph.

2. "Accessible route" means a continuous unobstructed path which:

a. Connects accessible elements and spaces in a building within a site;

b. Can be negotiated by a person with a severe disability using a wheelchair; and

c. Is safe for and usable by people with other disabilities.

Interior accessible routes may include corridors, floors, ramps, elevators and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts. A route that complies with the appropriate requirements of ANSI A117.1-1986 or comparable standard is an "accessible route."

3. "ANSI A117.1-1986" means the 1986 edition of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people. Copies may be obtained from American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018. Copies may be inspected at the Department of Housing and Urban Development, 451 Seventh Street S.W., Room 10276, Washington, D.C., or at the Office of the Federal Register, 1100 L Street N.W., Room 8401, Washington, D.C.

4. "Building" means a structure or facility, or portion thereof, that contains or serves one or more dwelling units.

5. "Building entrance on an accessible route" means an accessible entrance to a building that is connected by an accessible route to public transportation stops to accessible parking and passenger loading zones, or to public streets or sidewalks, if available. A building entrance that complies with ANSI A117.1-1986 or a comparable standard complies with the requirements of this paragraph.

6. "Common use areas" means rooms, spaces or elements inside or outside of a building that are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas and passageways among and between buildings.

7. "Controlled substance" means any drug or other substance, or immediate precursor included in the definition in section 102 of the Controlled Substances Act (21 U.S.C. 802).

8. "Multifamily dwellings" means buildings consisting of four or more dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of four or more dwelling units.

9. "Dwelling unit" means a single unit of residence for a family or one or more persons. Examples of dwelling units include: a single-family home; an apartment unit within an apartment building; and, in other types of dwellings wherein sleeping accommodations are provided but toilet or cooking facilities are shared by occupants of more than one room or portion of the dwelling, rooms in which people sleep. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.

10. "Entrance" means any access point to a building used by residents for the purpose of entering.

11. "Exterior" means all areas of the premises outside of an individual dwelling unit.

12. "First occupancy" means a building that has never before been used for any purpose.

13. "Ground floor" means a floor of a building with a building entrance on an accessible route. A building may have more than one ground floor.

14. "Disability" means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. This term does not include current illegal use of or addiction to a controlled substance. For purposes of this section, an individual

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shall not be considered to have a disability solely because that individual is a transvestite. As used in this definition:

a. "Physical or mental impairment" includes:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organ; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current illegal use of a controlled substance) and alcoholism.

b. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

c. "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

d. "Is regarded as having an impairment" means:

(i) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (a) of this definition but is treated by another person as having such an impairment.

e. "Interior" means the spaces, parts, components or elements of an individual dwelling unit.

f. "Modification" means any change to the public or common use areas of a building or any change to a dwelling unit.

g. "Premises" means the interior or exterior spaces, parts, components or elements of a building that are

made available to the general public. Public use may be provided at a building that is privately or publicly owned.

h. "Site" means a parcel of land bounded by a property line or a designated portion of a public right-of-way.

B. General Prohibitions Against Discrimination Because of Disability.

1. It shall be unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

a. That buyer or renter;

b. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

c. Any person associated with that person.

2. It shall be unlawful to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:

a. That buyer or renter;

b. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

c. Any person associated with that person.

3. It shall be unlawful to make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is sold, rented or made available, or any person associated with that person, has a disability, or to make inquiry as to the nature or severity of a disability of such a person. However, this paragraph does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they have disabilities:

a. Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

b. Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of handicap;

c. Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability;

d. Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance.

4. Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

C. Reasonable Modifications of Existing Premises.

1. It shall be unlawful for any person to refuse to permit, at the expense of a disabled person, reasonable modifications of existing premises, occupied or to be occupied by a disabled person, if the proposed modifications may be necessary to afford the disabled person full enjoyment of the premises of a dwelling. In the case of a rental where it is reasonable to modify the premises, the landlord may qualify permission for such a modification on the basis of the renter's agreeing to restore the premises to the condition that existed prior to the modifications, reasonable wear and tear excepted. The landlord may not increase for a disabled person any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

2. A landlord may condition permission for a modification on the basis of the renter's providing a reasonable description of the proposed modifications as well as reasonable assurance that the work will be done in a professional manner and any required building permits will be obtained.

D. Reasonable Accommodations. It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

E. Design and Construction Requirements.

1. Multifamily dwellings for first occupancy after March 13, 1991 shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site. For purposes of this section, a multifamily dwelling shall

be deemed to be designed and constructed for first occupancy on or before March 13, 1991, if the dwelling was occupied on that date. The burden of establishing impracticality because of terrain or unusual site characteristics is on the person or persons who designed or constructed the dwellings.

2. All multifamily dwellings for first occupancy after March 13, 1991 with a building entrance on an accessible route shall be designed and constructed in such a manner that:

a. The public and common use areas are readily accessible to and usable by disabled persons;

b. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by disabled persons in wheelchairs; and

c. All premises within multifamily dwelling units contain the following features of adaptable design:

(i) An accessible route into and through the dwelling unit,

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations,

(iii) Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower, stall and shower seat, where such facilities are provided, and

(iv) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. (Ord. 25580 § 1; passed Sept. 20, 1994; Ord. 25474 § 2; passed Apr. 12, 1994; Ord. 25352 § 1; passed Aug. 31, 1993)

**1.29.130 Housing for older persons.**

A. Exemptions.

1. The provisions in this section regarding familial status do not apply to housing which satisfies the requirements of Sections 1.29.140B, 1.29.140C, or 1.29.140D.

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

B. State and Federal Elderly Housing Programs.

1. The provisions in this section regarding familial status shall not apply to housing provided under any Federal or State program that the Secretary of Housing and Urban Development (HUD) has exempted.

C. Housing for Persons Who Are 62 Years of Age or Older.

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1. The provisions in this section regarding familial status shall not apply to housing intended for, and solely occupied by, persons 62 years of age or older. Housing satisfies the requirements of this section even though:

- a. There are persons residing in such housing on September 13, 1988 who are under 62 years of age; provided, that all new occupants are persons 62 years of age or older;
- b. There are unoccupied units; provided, that such units are reserved for occupancy by persons 62 years of age or older;
- c. There are units occupied by employees of the housing (and family members residing in the same unit) who are under 62 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

### D. Housing for Persons 55 Years of Age or Older.

1. The provisions in this section regarding familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit; provided, that the housing satisfies the requirements of Section 1.29.140D.2.a or 2.b and the requirements of Section 1.29.140D.3.

2. a. The housing facility has significant facilities and services specifically designed to meet the physical or social needs of older persons. "Significant facilities and services specifically designed to meet the physical or social needs of older persons" include, but are not limited to, social and recreational programs, continuing education, information and counseling, recreational, homemaker, outside maintenance and referral services, an accessible physical environment, emergency and preventive health care programs, congregate dining facilities, transportation to facilitate access to social services, and services designed to encourage and assist residents to use the services and facilities available to them (the housing facility need not have all of these features to qualify for the exemption under this subparagraph); or

b. It is not practicable to provide significant facilities and services designed to meet the physical or social needs of older persons and the housing facility is necessary to provide important housing opportunities for older persons. In order to satisfy this paragraph 2.b, the owner or manager of the housing facility must demonstrate through credible and objective evidence that the provision of significant facilities and services designed to meet the physical or social needs of older persons would result in depriving older persons in the relevant geographic area of

needed and desired housing. The following factors, among others, are relevant in meeting the requirements of this paragraph 2.b.

(i) Whether the owner or manager of the housing facility has endeavored to provide significant facilities and services designed to meet the physical or social needs of older persons either by the owner or by some other entity. Demonstrating that such services and facilities are expensive to provide is not alone sufficient to demonstrate that provision of such services is not practicable.

(ii) The amount of rent charged, if the dwellings are rented, or the price of the dwellings, if they are offered for sale.

(iii) The income range of the residents of the housing facility.

(iv) The demand for housing for older persons in the relevant geographic area.

(v) The range of housing choices for older persons within the relevant geographic area.

(vi) The availability of other similarly priced housing for older persons in the relevant geographic area. If similarly priced housing for older persons with significant facilities and services is reasonably available in the relevant geographic area then the housing facility does not meet the requirements of this paragraph 2.b.

(vii) The vacancy rate of the housing facility.

3. a. At least 80 percent of the units in the housing facility are occupied by at least one person 55 years of age or older per unit, except that a newly constructed housing facility for first occupancy after March 12, 1989 need not comply with this paragraph 3.a until 25 percent of the units in the facility are occupied; and

b. The owner or manager of a housing facility publishes and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of this paragraph 3.b:

(i) The manner in which the housing facility is described to prospective residents.

(ii) The nature of any advertising designed to attract prospective resident.

(iii) Age verification procedures.

(iv) Lease provisions.

(v) Written rules and regulations.

(vi) Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.

4. Housing satisfies the requirements of this section even though:

a. On September 13, 1988, under 80 percent of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit; provided, that at least 80 percent of the units that are occupied by new occupants after September 13, 1988 are occupied by at least one person 55 years of age or older.

b. There are unoccupied units; provided, that at least 80 percent of such units are reserved for occupancy by at least one person 55 years of age or over.

c. There are units occupied by employees of the housing facility (and family members residing in the same unit) who are under 55 years of age provided they perform substantial duties directly related to the management or maintenance of the housing. (Ord. 25474 § 3; passed Apr. 12, 1994; Ord. 25352 § 1; passed Aug. 31, 1993)

**1.29.140 Interference, coercion or intimidation.**

A. Prohibited Interference, Coercion or Intimidation.

1. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section.

2. Conduct made unlawful under this section includes, but is not limited to, the following:

a. Coercing a person, either orally, in writing, or by other means, to deny or limit the benefits; provided, that person in connection with the sale or rental of a dwelling or in connection with a residential real estate-related transaction because of race, color, religion, sex, disability, familial status, marital status, age, or national origin.

b. Threatening, intimidating or interfering with persons in their enjoyment of a dwelling because of the race, color, religion, sex, disability, familial status, marital status, age, or national origin of such persons, or of visitors or associates of such persons.

c. Threatening an employee or agent with dismissal or an adverse employment action, or taking such adverse employment action, for any effort to assist a person seeking access to the sale or rental of a dwelling or seeking access to any residential real

estate-related transaction, because of the race, color, religion, sex, disability, familial status, marital status, age, or national origin of that person or any person associated with that person.

d. Intimidating or threatening any person because that person is engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise, rights granted or protected by this section.

e. Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under Chapter 1.29 of the City of Tacoma Law Against Discrimination, as amended. (Ord. 25352 § 1; passed Aug. 31, 1993)

**1.29.150 Adjustment and settlement of complaints.**

Any complaint filed alleging an unlawful discriminatory housing practice shall be so filed within one year after the alleged act of discrimination. All other complaints filed alleging discriminatory acts prohibited by Chapter 1.29 shall be filed within six months after the alleged act.

Upon the filing with the Commission of a verified written complaint alleging that an unlawful discriminatory act has occurred or is occurring, the Commission's staff shall conduct a prompt investigation thereof along with conciliation efforts which shall begin with the filing of a complaint. If, upon the completion of such investigation, it is determined that insufficient evidence exists to support a reasonable cause finding that an unlawful discriminatory act has occurred or is occurring, such determination shall be filed in writing with the Commission and the complaint shall be dismissed. If a determination of reasonable cause is found and conciliation efforts have failed, the adjudicative procedures provided in Chapter 1.29 shall apply.

In any housing discrimination case in which it is determined that an unlawful discriminatory act has been committed, the case will be decided by the City of Tacoma Hearing Examiner if attempts at conciliation should fail. However, a charging party (including the Commission, if the Commission filed the complaint), a respondent, or an aggrieved person on whose behalf the complaint is filed may elect, in lieu of an administrative proceeding, to have the claims asserted in the charge decided in a civil action pursuant to Section 1.29.160.

In any case in which it is determined that an unlawful discriminatory act has been committed by the City of Tacoma or any department or agency thereof, the Executive Director of the Commission shall transmit

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such findings to the City Manager or the Director of Public Utilities, as appropriate, who shall, within 30 days, take such action as is deemed necessary in order to comply with the purposes of this chapter. The Department shall advise the charging party of their legal rights to include their recourse if the City/Department of Public Utilities does not conciliate the matter.

A. **Conciliation Failure.** If the complained-of unlawful practice cannot be eliminated through conciliation, the staff's finding of reasonable cause shall be reported to the Commission, accompanied by a determination by the Executive Director to take the unresolved case to a public hearing before the City Hearing Examiner.

NOTE: Based on the discovery of new and relevant evidence, the Executive Director may, at any time following conciliation failure, reopen the case to investigate new and relevant evidence. Based on results of investigation, the original determination may be revised.

1. The case in support of the Commission's finding of reasonable cause shall be presented at hearing by the City Attorney or the City Attorney's designee; provided, however, that the charging party may retain independent counsel, submit testimony, and be fully heard.
2. The respondent shall have the right to file a written answer to the charge and to appear at the hearing with or without counsel, submit testimony, and be fully heard, and to examine and cross-examine witnesses.
3. The Hearing Examiner shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath, and shall be transcribed.
4. If, upon all the evidence presented, the Hearing Examiner finds that the respondent has not engaged in an unlawful discriminatory practice, the Hearing Examiner shall issue an order dismissing the complaint.
5. If, upon all the evidence presented, the Hearing Examiner finds that the respondent has engaged or is engaging in an unlawful discriminatory practice, the Examiner shall issue an order which shall effectuate the purposes of this chapter. Such order shall require the respondent to cease and desist from such unlawful discriminatory practice and to take such action as is necessary to effectuate the purposes of this chapter. Orders to take action may include the hiring, reinstatement, or upgrading of employees, with or without back pay; admission or restoration to membership in any respondent labor organization;

the selling, renting, or leasing of a housing accommodation or housing accommodations upon equal terms and conditions and with equal facilities, services, and privileges; and any other order which, in the judgment of the Hearing Examiner, will effectuate the purposes of this chapter and is warranted by the facts presented at the hearing, including a requirement for report of the manner of compliance. Such orders requiring action to be taken by the respondent shall include terms requiring performance of such action within 30 days after receipt of notice by the respondent of the entry of such order. When a determination has been made by the Hearing Examiner under this section that an unlawful practice involving real property has been committed, the Hearing Examiner may, in addition to other relief authorized hereunder, issue the following types of orders:

a. To pay damages to the aggrieved person (including damages caused by humiliation and embarrassment).

b. Injunctive or such other equitable relief as may be appropriate. No such order may affect any contract, sale, encumbrance or lease consummated before the issuance of the initial decision that involved a bona fide purchaser, encumbrancer, or tenant without actual knowledge of the charge.

c. To vindicate the public interest, the Hearing Examiner may assess a civil penalty against the respondent.

(i) The amount of the civil penalty may not exceed:

(A) \$10,000.00, if the respondent has not been adjudged to have committed any prior discriminatory housing practice in any administrative hearing or civil action permitted under Chapter 1.29 of the City of Tacoma Law Against Discrimination, as amended.

(B) \$25,000.00, if the respondent has been adjudged to have committed one other discriminatory housing practice in any administrative hearing or civil action permitted under Chapter 1.29 of the City of Tacoma Law Against Discrimination, as amended.

(C) \$50,000.00, if the respondent has been adjudged to have committed two or more discriminatory housing practices in any administrative hearing or civil actions permitted under Chapter 1.29 of the City of Tacoma Law Against Discrimination, as amended.

B. **Municipal Offense.** A respondent which has not complied with the terms of an order mandating relief as described above within 30 days of receiving notice of the entry of such order shall be deemed guilty of a municipal offense against the City of Tacoma and shall be liable to the City in an amount not to exceed \$100.00 to be levied by the Municipal Court of the City of Tacoma for each day in excess of the 30 days

provided for herein on which such respondent has failed to comply with an order rendered by the Hearing Examiner or to seek Superior Court review of such order.

C. **Appeal from Orders of Hearing Examiner.** Any respondent or charging party aggrieved by a final order of the Hearing Examiner may obtain a review of such order on the record in the Superior Court of Washington for Pierce County by filing with the Clerk of that Court, within 30 days from the date of receipt of such order, a written petition praying that such order be modified or set aside. The Hearing Examiner shall then cause to be filed in the Court a certified transcript of the entire record of the proceedings, including the pleadings, testimony, and order. The Superior Court shall have jurisdiction to grant to any party such relief as it deems just and equitable. Judicial review of an order of the Hearing Examiner shall be on the record and in accordance with the provisions set forth at RCW 49.60.270. Filing of a petition seeking judicial review of an order of the Hearing Examiner shall operate as a stay of such order.

D. **Court Enforcement of Orders.** The City of Tacoma may petition the Superior Court of Washington for Pierce County for enforcement of any order of the Hearing Examiner which has not been complied with during the 30-day period of performance prescribed in such order. The Commission, through the City Attorney or the City Attorney's designee, shall certify and file in Superior Court the findings of fact and final order sought to be enforced. Within five days after filing such petition in Court, the Commission shall cause a notice of the petition to be personally served upon all parties or their representatives. Such review shall be in accordance with the provisions set forth at RCW 49.60.260. (Ord. 25580 § 2; passed Sept. 20, 1994; Ord. 25474 § 4; passed Apr. 12, 1994; Ord. 25352 § 1; passed Aug. 31, 1993)

### **1.29.160 Election for civil action in lieu of hearing - Relief.**

A. Any charging party on whose behalf the reasonable cause finding was made, a respondent, or an aggrieved person may, with respect to real estate transactions pursuant to Sections 1.29.100 through 1.29.150 hereof, elect to have the claims on which reasonable cause was found decided in a civil action in Pierce County Superior Court in lieu of a hearing under Section 1.29.150. This election must be made not later than 20 days after the service of the reasonable cause finding. The person making such election shall give notice of doing so to the Commission and to all other charging parties and respondents to whom the charge relates. Any

reasonable cause finding issued by the Commission pursuant to the procedures contained in this chapter shall become final 20 days after service of the reasonable cause finding, unless a written notice of election is received by the Commission within the 20-day period.

B. If an election is made under subsection A of this section, the Commission shall authorize, and the City Attorney shall commence, a civil action on behalf of the aggrieved person in the Pierce County Superior Court, not later than 30 days after the election is made, seeking relief under Chapter 1.29.

C. Any aggrieved person with respect to the issues to be determined in a civil action under this section may intervene as of right in that civil action.

D. In a civil action under this section, if the court finds that an unlawful discriminatory housing practice has occurred or is about to occur, the court may grant any relief that a court could grant with respect to such an unlawful discriminatory housing practice in a civil action under state law and as provided by the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3601 et seq.) If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

E. In any administrative proceeding under this section where the respondent is the prevailing party, a charging party who intervenes by filing a notice of independent appearance may be liable for reasonable attorneys' fees and costs only to the extent that the intervening participation in the administrative proceeding was frivolous or vexatious, or was for the purpose of harassment.

F. In any administrative proceeding brought under Section 1.29.150 or any court proceeding arising therefrom, or any civil action under this section, the administrative law judge or the court in its discretion may allow the prevailing party, other than the Commission, reasonable attorneys' fees and costs. (Ord. 25580 § 3; passed Sept. 20, 1994; Ord. 25474 § 5; passed Apr. 12, 1994)

### **1.29.170 Enforcement by private persons.**

A. An aggrieved person may commence a civil action in Pierce County Superior Court not later than one year after the occurrence or the termination of an alleged discriminatory housing practice, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice.

B. The computation of such one-year period shall not include any time during which an administrative

proceeding under this chapter was pending with respect to a complaint or charge under this chapter based upon such discriminatory housing practice.

C. An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under Section 1.29.150 hereof and without regard to the status of any such complaint, but if the Commission or the U.S. Department of Housing and Urban Development has obtained a pre-finding or post-finding settlement or conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such agreement.

D. An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a complaint if a hearing on the complaint has been convened by the City of Tacoma Hearing Examiner.

E. In a civil action under subsection A hereof, if the court finds that a discriminatory practice has occurred or is about to occur, the court may order remedies as allowed by the Federal Fair Housing Amendments Act of 1988, at 42 USC Sec. 3613(c) and, subject to the restrictions of subsection F below, may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including any order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate). The court may also allow reasonable attorneys' fees and costs to the prevailing party.

F. Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Director or a civil action under this chapter.

G. Upon timely application, the City Attorney may intervene in such civil action, if the City Attorney certifies that the case is of general public importance. (Ord. 25474 § 6; passed Apr. 12, 1994)

Chapter 1.30

RETIREMENT AND PENSIONS<sup>22</sup>

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1.30.020 Definitions - Introductory.
1.30.030 Retirement System defined.
1.30.040 Employee defined.
1.30.050 Member/Member Public Agency defined.
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1.30.370 Contributions - Additional permitted.

<sup>22</sup> Similar statute – See RCW Chapter 41.28 and RCW Sections 41.04.040 – 41.04.110.