

**ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA
June 21, 2016, 6:00 PM.
Municipal Building - Assembly Chambers**

Special Meeting of the Committee of the Whole Public Hearing and Worksession

I. ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. June 6, 2016 Committee of the Whole Meeting Minutes

IV. AGENDA TOPICS

A. Ordinance 2016-23 An Ordinance Amending the City and Borough of Juneau Code to Add a New Title on Equal Rights.

This ordinance would make discrimination based on race, color, age, religion, sex, familial status, disability, sexual orientation, gender identity, or national origin unlawful. By policy, CBJ finds such discrimination a threat to the health, safety and general welfare of the citizens of the City and Borough.

The Assembly introduced this ordinance at the June 13, 2016 meeting and referred the matter to the Committee of the Whole.

V. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org

**ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA
MINUTES**

June 6, 2016, 6:00 PM.
Municipal Building - Assembly Chambers

Assembly Worksession - No public testimony

I. ROLL CALL

Deputy Mayor Jesse Kiehl called the meeting to order at 6:00 p.m. in the Assembly Chambers.

Assemblymembers Present: Jamie Bursell, Maria Gladziszewski, Loren Jones, Jesse Kiehl, Ken Koelsch, Jerry Nankervis, Kate Troll and Debbie White.

Assemblymembers Absent: Mary Becker.

Staff present: Rorie Watt, City Manager; Mila Cosgrove, Deputy City Manager; Laurie Sica, Municipal Clerk; Bob Bartholomew, Finance Director; Bryce Johnson, Police Chief; Kirk Duncan, Parks and Recreation Director; Ed Mercer, Deputy Police Chief; Kris Sell, Lt. JPD; Scott Erickson, Jt. JPD; Erann Kalwara; Public Safety Manager; Rob Steedle, Community Development Director; Greg Chaney, Lands and Resources Manager; Jorden Nigro, Zach Gordon Youth Center Manager.

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. May 16, 2016 Committee of the Whole Meeting Minutes

Hearing no objection, the minutes of the May 16, 2016 Committee of the Whole meeting were approved.

IV. AGENDA TOPICS

A. Parks and Recreation Update

Kirk Duncan, Parks and Recreation Director, said the P&R Master Plan process has commenced and would be completed in the Spring of 2018.

Ms. Gladziszewski asked about the comment of appointing an active group of citizens, and she asked what the Parks and Recreation Advisory Committee's role would be in the process. Mr. Duncan said he envisioned a 15 member steering committee and the PRAC would have at least one member on that committee. He said the PRAC was looking at itself as an issues-based board rather than a long term planning board. Ms. Gladziszewski thought the PRAC should help steer the process. Mr. Duncan said the member of the PRAC would help steer, but issues such as fireworks, etc. were areas in which the PRAC feels it is most productive. Ms. Gladziszewski asked Mr. Duncan to confirm that with the PRAC. He said he had spoken with the chair, but would do so.

Mr. Kiehl asked how the public would be involved with the planning process. Mr. Duncan said 80 active groups have been identified that have involvement with the parks, and they will hold public meetings and gather citizen input. They are working with the Juneau Parks Foundation to do a parks assessment of the current conditions of the parks and the desires the community has for

individual parks. Mr. Kiehl said there had been significant changes to Marine Park without public process and said this has happened with a few other parks. Mr. Duncan said the reason why this was scheduled to take 24 months is to ensure the public has a voice and there would be meetings, surveys, and much of the process was educational and would work on gaining public involvement. A preliminary plan for further public comment was anticipated and the public outreach would be extensive.

Ms. Troll asked how the P&R Master plan interfaced with the capital improvement list. Mr. Duncan said the plan would come first, then the decisions would be made on how to fund the needs, through both operational budgets and the capital improvement plan. Ms. Troll asked if deferred maintenance would be incorporated into the plan. Mr. Duncan said yes, that would be part of the park survey of current conditions, to determine what it will take to bring things to good condition.

Mr. Duncan reported on a grant received from the Juneau Community Foundation Hope Fund to fund a position of a youth outreach coordinator. He asked the Assembly for a recommendation to appropriate the funds. P&R has identified a need for youth outreach and we have been able to fund this within the existing budget and it was funded. The position would work with the school district and other agencies and place at-risk children into existing programs as a bridging position. Debbie White asked if the position was in the existing budget just approved, and if so, what would happen to the funds being replaced by grant funds. Mr. Duncan said yes, and the funds that were budgeted for it would fall into fund balance. It was a grant that could be applied for in future years.

Mr. Nankervis asked if the grant was not successful in future years. He said the position was fully funded in the P&R operating budget in FY17 and 18.

MOTION, by Troll, to forward an ordinance appropriating the \$30,000 grant for the program to come before the Assembly at its June 13 meeting. Hearing no objection, it was so ordered.

B. JPD Annual Report

Mr. Johnson said that though Assemblymembers and city staff have changed over the past year, the support for the JPD has been consistent and he thanked the Assembly. He said 2015 was difficult year and explained crime statistics in the JPD Annual Report. He explained that the Uniform Crime Reporting program (UCR) for reporting crimes has been used since the 1930's and did not always match local and state definitions and eventually the department would be moving to a different standard, the NCR (National Crime Reporting) standard. He said that JPD was doing well with its low "use of force" rate. He said new realities for JPD are reforms to the criminal justice system and budget cuts that are reducing jail times and the time for people to make bail. The "war on drugs" has shifted focus and much of the drug crimes are becoming misdemeanors. There are fewer district attorney's prosecuting crimes, the city attorney is trying to take on that work, but we need to find new ways to tackle problems. At the moment there are four vacancies in sworn officer staff and one vacancy in the dispatch service, and he said overall staffing was going in the right direction.

Chief Johnson touched on points in the strategic plan and things to look forward to are a geographic policing model, getting officers outside of cars, neighborhood watches, community action teams, and increased collaboration with community partners. Their focus is on illegal narcotics, which is a driver for many other crimes.

Ms. White said the report was easy to understand and she thanked him for the work.

Ms. Troll asked about the affect of the pawn shop ordinance. Chief Johnson said that the ordinance has been helpful and several cases have been made based on the ordinance. Ms. Troll said there were difficult situations with the opiate cases and murders and she was impressed by the professionalism of the community police department. Chief Johnson said his experience was that Juneau was a dedicated community policing department, more so than in many communities he has experienced.

Mayor Koelsch asked about the reduction in traffic stops and Chief Johnson said that there has been a shift from traffic stops to training and to other crimes. He spoke about the transfer of the higher ticket writing employees to other positions or to training. He said that fewer stops lead to fewer DUI arrests and JPD now has officers out doing that and there has been additional training for officers and there was a new unmarked vehicle in use to support of DUI stops. Mayor Koelsch asked about the relationship with state enforcement officers and Chief Johnson spoke about new cooperative efforts that are beginning with State Troopers and narcotics officers, US Coast Guard, and Federal Postal Inspectors. Mayor Koelsch thanked Chief Johnson for the Police Officer's Memorial.

Mr. Jones asked about the case clearance rates and said that this has little to do with the final prosecution in the criminal justice system. Chief Johnson said the clearance rates are only based upon the JPD's work on a case, not the final outcome by state prosecutors.

Mr. Nankervis said that Chief Johnson and JPD were the face of the community and JPD has a very good reputation in Juneau and he applauded the police force for their work.

Ms. Gladziszewski agreed and asked if Chief Johnson believed the strategic plan could be accomplished. He said that geographic policing along with neighborhood watch would assist with this and some of the programs would show fruition down the road. They have annual work plans that relate back to the strategic plan for the next five years. Ms. Gladziszewski would like to hear more about how state budget cuts will affect JPD's work. Chief Johnson spoke about the cut to the District Attorney's office and this reduces the number of cases prosecuted. There has been a change to the bail schedule and the penalties for misdemeanors.

Mr. Kiehl asked if there were statistics that could be looked at in a multi-year way going forward. Chief Johnson spoke about SB91 and an example of a class C felony, such as the JACC break in, would be a citable offense with a fine rather than jail time, and this would change how JPD would be doing its work.

Ms. Bursell spoke about the Shop with a Cop program and said that it was well received.

Mr. Kiehl talked about a situation in which a building manager sought help from JPD on how to make changes to make their situation more secure and this was a good example of proactive work that makes a difference in the community.

C. Potential Ballot Measure - Extension of 3% Sales Tax

Mr. Watt referred to the issue paper in the packet. The temporary 3% sales tax expires next June and is a significant piece of the revenue for CBJ infrastructure. He would like the Assembly to consider making it a longer term tax, as it has been renewed every three years since the early 80's. Staff recommends asking the public to make the tax permanent or at minimum extended for a ten year period.

Mr. Bartholomew explained the past ballot measure and the explanation of how the funds have been spent. The focus has been on capital projects and general government services covering almost all of the departments.

Mr. Kiehl said there were three questions - 1) to allow the tax to expire, 2) to ask the voters to make this permanent, and 3) to remove any portion of the tax from the sale of groceries.

There was no interest in allowing the tax to expire.

Mr. White did not support making the tax permanent. She did not object to allowing the voters to vote periodically, with education as to what the funds would be spent on. She would only stretch it five to ten years and was concerned with voter turnout.

Ms. Troll said that a permanent tax could aid in long term planning with secure, predictable revenue streams, but the timing was difficult with the uncertainty at the state level. The voters are used to supporting this in three year periods and this would match the voter's comfort level. We are unsure if the state will implement an income tax. She would support three, five or ten years, but not permanent.

Ms. Gladziszewski said as a citizen she always questioned the need to vote on it temporarily yet again and again. It seems to be what funds basic government services. She would like to finish the review of the sales tax on food. When we amended the code regarding senior exemptions, it looks like the burden is completely upon seniors. The Chamber of Commerce supported removing the sales tax on food.

Mr. Nankervis said the temporary tax allowed the citizens to keep the Assembly "honest." It is the voters' way to make a statement.

Ms. White said that in this economic climate, this might be one time the citizens would say no to a permanent tax. Mr. Kiehl said the questions could be posed separately.

Mr. Koelsch said there is a permanent 1% sales tax, and a temporary 3% and temporary 1%. We can't run the government without the 3% sales tax. Having it as permanent would allow us to look at some other uses of the 1% additional tax.

MOTION, by Koelsch, to separate the question for the voters, to make one question the renewal of the 3% tax for a five year period, and a second question would be whether to make the tax permanent.

Roll call:

Aye: Jones, Gladziszewski, Kiehl, Troll, Koelsch

Nay: Bursell, Nankervis, White

Motion passed 5 aye, 3 nay.

Mr. Kiehl clarified that this ordinance would come before the Assembly at it June 13 Assembly meeting for introduction.

Mr. Kiehl provided information from the Finance Department regarding the cost of a 1% sales tax reduction on food.

Mr. Bartholomew explained that there had been discussion on removing the sales tax from food, which could be offset by an increase in the sales tax on other items. In this proposal, there is contemplated a reduction in the sales tax on food by 1% increments.

The Assemblymembers took turns expressing their thoughts and asking questions. There was discussion about some large merchants not programming the SNAP food items into their point of sale system causing people to have to separate food and non-food items at the checkstand. There was discussion about how a reduction in tax on food but increases in other areas would be viewed by the senior population. There was interest in seeing a "revenue neutral option" that would not decrease the amount of sales tax currently collected, but would also remove the tax on food. There was an interest in finding out if there were other "essential" purchases that could be included in a blanket exemption on food, such as utilities or heating fuel. There was discussion on varying rates of taxation vs. a blanket rate of taxation with exemptions. There was concern about on-line sales affecting the overall sales tax program.

Mr. Kiehl said for followup, the Assembly would like information from Finance on whether merchants can deal with different incremental rates on groceries, what tax rate would be revenue neutral if groceries were exempted, and if there were other items that could be tax exempt to cumulatively sustain a 6% tax rate.

D. Potential Ballot Measure - Marijuana Taxation

Mr. Bartholomew said increasing the tax on marijuana was a recommendation from the Marijuana Committee. He gave the estimates of taxes to be raised at 5% and 8%. He said it was difficult to determine potential returns and he thought the estimates were conservative. An effective date of January 1, 2017, would allow staff time to create forms, in the event sales were even happening by that time. The use of the increased revenue could be put in the sales tax fund for general fund operations or CIP funding.

***MOTION**, by Koelsch, to direct staff to draft an ordinance for the ballot to increase the retail sales tax rate on marijuana from 5% to 8% to be effective Jan 1, 2017 and to place the questions before the voters.*

Roll call:

Aye: Bursell, Jones, Gladziszewski, Kiehl, White, Koelsch

Nay: Nankervis, Troll

Motion passed, 6 ayes, 2 nays.

E. CBJ Review of Proposed State Marijuana Consumption Regulations

Mr. Kiehl noted that any comments on the proposed regulations issued by the State would need to be made by the Assembly at next Monday's Assembly meeting to meet the deadline. This was an opportunity for discussion.

Ms. Gladziszewski said the language on page 3 in item 6 was confusing and the Assembly discussed the matter. She asked that the City Attorney review the matter. Mr. Watt suggested that he could provide a comment from the Assembly that the language was confusing.

V. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

None.

VI. ADJOURNMENT

There being no further business to come before the committee, the meeting adjourned at 8 p.m.

Submitted by Laurie Sica, MMC, Municipal Clerk

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2016-23

An Ordinance Amending the City and Borough of Juneau Code to Add a New Title on Equal Rights.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. New Title. A new title is added to the City and Borough of Juneau Code, entitled: Title 41 - Equal Rights, to read:

Title 41

Equal Rights

41.05.005 Policy.

It is the policy of the City and Borough of Juneau to eliminate unlawful discrimination based on race, color, age, religion, sex, familial status, disability, sexual orientation, gender identity, or national origin. Such discrimination poses a threat to the health, safety and general welfare of the citizens of the City and Borough.

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41.05.010 Discrimination in employment.

(a) It shall be a prohibited discriminatory employment practice:

(1) For an employer to fail or refuse to hire, to discharge, bar from employment, or to otherwise to discriminate against any individual with respect to compensation or the terms, conditions, or privileges of employment because of race, color, age, religion, sex, familial status, disability, sexual orientation, gender identity, or national origin;

(2) For a labor organization to exclude or expel from membership, or otherwise to discriminate against any applicant or member, because of race, color, age, religion, sex, familial status, disability, sexual orientation, gender identity, or national origin of any applicant or member;

(3) For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against any individual because of race, color, age, religion, sex, familial status, disability, sexual orientation, gender identity, or national origin of said individual;

(4) For an employer, labor organization, or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to make any inquiry in connection with prospective employment, which expresses directly or indirectly a preference, limitation, specification, or discrimination because of race, color, age, religion, sex, familial status, disability, sexual orientation, gender identity, or national origin, unless based upon a bona fide occupational qualification;

(5) For an academic, professional or vocational school to exclude or expel from enrollment, or otherwise to discriminate against any applicant or student, because of the student's race, color, religion, familial status, disability, sexual orientation, gender identity, or national origin;

(6) For an academic, professional or vocational school to print or circulate or cause to be printed or circulated, a statement, advertisement or publication, or to use any form of application for admission to said school, or to make any inquiry in connection with prospective enrollment in said school, which expresses directly or indirectly a preference, limitation, specification, or discrimination because of race, color, religion, sexual orientation, gender identity, familial status, disability, or national origin;

(b) Nothing in this chapter shall be interpreted to require an employer, employment agency, labor organization, or joint labor-management committee subject to this ordinance to grant or accord preferential treatment to an individual or group because of the race, color, religion, sexual orientation, gender identity, familial status, disability, or national origin of such individual or group because of an imbalance that may exist with respect to the total number or percentage of persons of any race, color, religion, sexual orientation, gender identity, familial status, disability, or national origin employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to or employed in an apprenticeship or other training program in comparison with the total number or percentage of persons of such race, color, religion, sexual orientation, gender identity, familial status, disability, or national origin in this community or in the available work force in this community.

41.05.015 Discrimination in the provision of housing or realty.

(a) It shall be a prohibited housing or realty practice:

(1) For a person, including a banking, money lending, credit securing or other financial institution, or an officer, agent or employee thereof, to discriminate against an

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2 individual because of race, color, age, religion, sex, familial status, disability, sexual
3 orientation, gender identity, or national origin, with respect to the granting or withholding
4 of credit or financial assistance, or modifying of rates, terms, conditions, privileges or other
5 provisions of credit or financial assistance, in connection with the transfer or prospective
6 transfer of any interest whatsoever in realty, or in connection with the construction,
7 repair, improvement, or rehabilitation of realty;

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9 (2) For a real estate broker, salesperson, or agent, or an employee thereof, or any
10 other person seeking financial gain thereby, directly or indirectly to induce or solicit, or
11 attempt to induce or solicit, the transfer of any interest whatsoever in realty, by making or
12 distributing, or causing to be made or distributed, a statement or representation
13 concerning the entry or prospective entry into the neighborhood of a person or persons of a
14 particular race, color, age, religion, sex, familial status, disability, sexual orientation,
15 gender identity, or national origin, or with a particular source of lawful income;

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17 (3) For a person to refuse to sell or rent after the making of a bona fide offer, or to
18 refuse to negotiate the sale or rental of, or otherwise make unavailable or deny a dwelling
19 to a person because of race, color, age, religion, sex, familial status, disability, sexual
20 orientation, gender identity, national origin, or a particular source of lawful income;

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22 (4) For a person to discriminate against another person in the terms, conditions, or
23 privileges of sale or rental of a dwelling, or in the provision of services or facilities in
24 connection therewith, because of race, color, age, religion, sex, familial status, disability,
sexual orientation, gender identity, national origin, or a particular source of lawful income;

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(5) For a person to make, print, or publish, or cause to be made, printed, or
published a notice, statement, or advertisement with respect to the sale or rental of a

dwelling that indicates any preference, limitation, or discrimination based on race, color, age, religion, sex, familial status, disability, sexual orientation, gender identity, national origin, or lawful source of income, or an intention to make any such preference, limitation, or discrimination;

(6) For a person to represent to another person because of race, color, age, religion, sex, familial status, disability, sexual orientation, gender identity, national origin, or lawful source of income that a dwelling is not available for inspection, sale, or rental when such dwelling is, in fact, available for such purpose; and

(7) For a person to deny another person access to or membership or participation in a 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 another person in the terms or conditions of such access, membership or participation on account of race, color, age, religion, sex, familial status, disability, sexual orientation, gender identity, or national origin.

(b) For purposes of this section, with respect to persons with disabilities, the term prohibited discriminatory practices includes:

(1) Refusal to permit, at the expense of a person with a disability, or another person on behalf of a person with a disability, reasonable modification of existing premises occupied by or to be occupied by the person with disabilities if the modification may be necessary or desirable to afford the person with a disability full enjoyment of the premises, except that, in the case of a rental unit the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the

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2 premises to the condition that existed before the modification, reasonable wear and tear
3 excepted; and

4 (2) A refusal to make reasonable accommodations in rules, policies, practices, or
5 services, when accommodation may be necessary to afford the person an equal opportunity
6 to use and enjoy a dwelling.
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9 **41.05.020 Discrimination in public accommodations.**

10 It shall be a prohibited discriminatory public accommodation practice for any person, including
11 any owner, lessee, manager, proprietor, custodian, agent, or employee of a place of public
12 accommodation to discriminate against any individual because of race, color, age, religion, sex,
13 familial status, disability, sexual orientation, gender identity, or national origin, with respect
14 to the terms, conditions, and privileges of access to or with respect to the uses, services, and
15 enjoyment of a place of public accommodation.
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17 **41.05.025 Discrimination in public activities or programs.**

18 No person shall, on the ground of race, color, age, religion, sex, familial status, disability,
19 sexual orientation, gender identity, or national origin, be excluded from participation in, be
20 denied the benefits of, or be subjected to discrimination under a program or activity receiving
21 funding or other financial assistance or relief directly or indirectly from the City and Borough
22 of Juneau.
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41.05.030 Lawful practices.

- (a) Nothing in this chapter shall be construed to preempt federal law with respect to a federally recognized Tribe granting preference in employment or housing to Tribal members.
- (b) The provisions of 41.05.015(a) shall not apply to rental of a room or rooms in a dwelling unit actually occupied by the owner as the owner's residence, or actually occupied by a member of the owner's immediate family as the family member's residence. For purposes of this section, "immediate family member" means the owner's spouse, minor child, dependent, or a regular member of the owner's household, provided that the owner rents not more than three rooms within the residence.
- (c) The provisions of 41.05.015(a) and 41.05.025 regarding age and familial status shall not apply with respect to housing for older persons.
- (d) Nothing in this chapter prohibits a religious organization, association, or society, or a nonprofit institution or organization operated, supervised, or controlled by a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such a person. Neither shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for club purposes and not for profit, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- (e) It shall not be an unlawful employment practice for a school, college, university or other educational institution, which is in whole or in substantial part, owned, controlled, or managed by a particular religion, or by a particular religious corporation, association, or society, if the

curriculum of the school, college, university or other educational institution is substantially directed toward the propagation or teaching of a particular religion, to consider the religion of an applicant in making a hiring decision for a teaching or counseling position, a professorship, or a position involving supervision of teachers, counselors or professors if the duties required by those positions consist primarily of teaching or spreading religious doctrine.

(f) Nothing in this chapter shall be construed to diminish the protections afforded employees of the City and Borough of Juneau under CBJ 44.05.020.

41.05.035 Unlawful intimidation or retaliation.

It shall be a prohibited discriminatory practice for a person, directly or indirectly, to discriminate, coerce, intimidate, threaten, interfere with, or retaliate against a person because the person has:

- (1) opposed any practice made unlawful by this chapter;
- (2) exercised the person's rights, or encouraged another to exercise his or her rights under this chapter; or
- (3) filed a complaint, cooperated with an investigation of an alleged prohibited discriminatory practice, testified at a hearing held under, or otherwise assisted in any proceeding under this chapter.

41.05.040 Aiding, abetting, or coercing a violation.

It is unlawful for any person to aid, abet, incite, compel, or coerce the doing of an act forbidden under this chapter or to attempt to do so.

41.05.045 Cause of action.

(a) A person aggrieved by a discriminatory practice prohibited under this chapter may, within 300 days of any violation of this chapter, petition in court to enjoin a violation of this chapter or seek remedy for a violation.

(b) Remedy may include such relief as the court deems just and proper, and may include one or more of the following:

- (1) requiring training concerning discriminatory practices;
- (2) an accommodation for a person with a disability;
- (3) removal of or changes to a personnel record;
- (4) posting of signs;
- (5) back pay;
- (6) the hiring, reinstatement, or upgrading of an employee with or without back pay;
- (7) the payment of front pay for a period of not more than one year if hiring, reinstatement, or upgrading of an employee is inappropriate because a vacancy does not exist, the employer's discriminatory practice rendered the employee incapable of returning to work, or the relationship between the employer and employee has so deteriorated as to make working conditions intolerable;
- (8) restoration to membership in a labor organization;
- (9) admission to or participation in an apprenticeship training program, on-the-job training program, or other retraining program;
- (10) restoration of seniority;
- (11) the sale, lease, or rental of the housing accommodation to the aggrieved person if it is still available, or the sale, lease, or rental of a like accommodation owned by the

respondent if one is still available, or the sale, lease, or rental of the next vacancy in a like accommodation, owned by the respondent; and

(12) actual damages incurred as a result of the unlawful practice or violation.

(c) An order for back pay or front pay under (b)(5)-(7) of this section must be reduced by the amount the employee could have earned or could earn by making reasonably diligent efforts to obtain similar employment.

41.05.050 Definitions.

For purposes of this chapter:

Disability means, with respect to a person:

(1) a physical or mental impairment which substantially limits one or more of a person's major life activities;

(2) a record of having such impairment; or

(3) being regarded as having such an impairment. "Disability" does not include current, illegal use of or addiction to a controlled substance in violation of applicable state law. However, a person may be considered to be disabled if that person:

(A) has successfully completed a supervised drug rehabilitation program, and

(i) is no longer engaging in the illegal use of a controlled substance;

(ii) is not currently addicted to a controlled substance; or

(iii) has otherwise been rehabilitated successfully and is no longer engaging in use of a controlled substance and is not currently addicted;

(B) is participating in a supervised rehabilitation program and is no longer engaging in illegal use of controlled substances; or

(C) Is erroneously regarded as currently illegally using, or being addicted to, a controlled substance.

Employer includes any person who employs four or more persons exclusive of that person's parents, spouse or children.

Employment agency includes any person undertaking for compensation to procure opportunities to work or to procure, recruit, refer or place employees.

Familial status means marital status, changes in marital status, pregnancy, or parenthood.

Financial institution means bank, banking organization, mortgage company, insurance company, investment company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of or as agent of any of these.

Gender identity means a person's gender-related self-identity appearance, expression, or behavior, regardless of the person's assigned sex at birth. A person's gender identity may be shown by evidence of medical history, care or treatment of the gender identity, consistent and uniform assertion of the gender identity, or other evidence that the gender identity is sincerely held, core to a person's gender-related self-identity, and not being asserted for an improper purpose.

Housing for older persons means housing:

- (1) provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development has determined is specifically designed and operated to assist elderly persons;
- (2) intended for, and solely occupied by, persons 55 years of age or older; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per unit.

Individual means one or more individuals.

Labor organization includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.

National origin includes ancestry.

Person includes one or more individuals, partnerships, associations, unincorporated organizations, corporations, mutual companies, joint-stock companies, legal representatives, trusts, trustees, trustees in bankruptcy, and receivers.

Place of public accommodation means all places or businesses offering or holding out to the general public services or facilities for the comfort, health and safety of the general public, including public places providing food, shelter, recreation and amusement.

Sexual orientation means actual or perceived heterosexuality, homosexuality, bisexuality, or asexuality.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2016.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk