

**COMMITTEE OF THE WHOLE, 6:45 PM  
TUESDAY, JULY 25, 2017  
COUNCIL CHAMBERS, TO HEAR PRESENTATION  
FROM LIBERTY PARKERSBURG**

- I. CALL TO ORDER – Chairman, Councilman Mike Reynolds**
- II. ROLL CALL**
- III. PRESENTATION from Liberty Parkersburg in opposition to the non-discrimination ordinance.**
- IV. Consideration of the non-discrimination ordinance including action to refer the non-discrimination ordinance back to City Council.**
- V. RISE AND REPORT TO CITY COUNCIL**
- VI. ADJOURNMENT**

**AN ORDINANCE RECOGNIZING EQUAL OPPORTUNITY IN THE AREAS OF EMPLOYMENT, PUBLIC ACCOMMODATIONS, AND THE SALE, LEASE, RENTAL AND FINANCING OF HOUSING ACCOMODATIONS FOR ALL PERSONS WITHOUT REGARD TO RACE, RELIGION, COLOR, NATIONAL ORIGIN, ANCESTRY, SEX, BLINDNESS, DISABILITY, GENETIC INFORMATION, FAMILIAL STATUS, VETERAN STATUS, SEXUAL ORIENTATION OR GENDER IDENTITY**

**WHEREAS**, the City of Parkersburg strives to be an inclusive City, where people can live, work and worship without fear of discrimination;

**WHEREAS**, an inclusive City must recognize all persons, regardless of race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation or gender identity, to be free in the exercise and expression of their beliefs, values and relationships; and

**WHEREAS**, the City of Parkersburg wishes to maintain a competitive business environment by working with businesses to eliminate barriers to recruiting a talented workforce:

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Council of the City of Parkersburg as follows:

**Title: City of Parkersburg Equal Opportunity Non-Discrimination Policy**

**Sec. 150.01- Declaration of Policy.**

- (a) Equal opportunity in the areas of employment, public accommodations, and in the sale, lease, rental and financing of housing accommodations are hereby recognized to be a right of all persons without regard to race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation or gender identity.
- (b) The denial of these rights of properly qualified persons is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society.

**Sec. 150.02 - Definitions.**

When used in this ordinance:

**Age** means 40 or above.

**Bona Fide Occupational Qualification** means reasonably necessary to the normal operation of a particular business or enterprise.

**Disability** means a person who:

- (1) Has a mental or physical impairment which substantially limits one or more of such person's major life activities: **major life activities** include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;

- (2) Has a record of such impairment; or
- (3) Is regarded as having such an impairment.

For the purposes of this ordinance, **disability** does not include persons whose current use of or addiction to alcohol or drugs prevents such individuals from performing the duties of the job in question or whose employment, by reasons of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

For the purposes of this ordinance, a person shall be considered to be blind only if their central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if their visual acuity is greater than 20/200 but is occasioned by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

**Discriminate or discrimination** means to exclude from, or fail or refuse to extend to, a person equal opportunities because of race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation or gender identity and includes to **separate or segregate**.

**Employee** shall not include any individual employed by his parents, spouse or child, or in the domestic service of any person.

**Employer** means any person employing 12 or more persons within the City and includes an agent of such person, and its agencies. Provided, that such terms shall not be taken, understood or construed to include a private club, which, in fact, is not open to the public.

**Employment Agency** includes any person regularly undertaking with or without compensation, to procure, recruit, refer or place employees. A newspaper engaged in the activity of advertising in the normal course of its business shall not be deemed to be an employment agency.

**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 protection 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 eighteen years. Nothing in this definition restricts advertisements of dwelling which are intended and operated for occupancy by older persons and which constitute housing for older persons.

**Gender Identity** means a person's sense of oneself as male, female or transgender, regardless of one's sex as assigned at birth.

**Genetic Information** means, with respect to any individual, information about such individual's genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual.

**Housing accommodations** means any building or portion thereof which is used or intended for use as the residence or sleeping place of one or more persons. Nothing contained in this definition or this article shall apply to the rental of a room or rooms in a rooming house occupied by the owner as a place of residence and containing no more than four rented rooms, or rooms to be rented.

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

**Owner** shall include the owner, lessee, sublessee, assignee, manager, agents, or other person having the right to sell, rent or lease any housing accommodation or real property within the City or any agent of any of these.

**Person** means one or more individuals, partnerships, associations, organizations, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers and other organized groups of persons.

**Place of public accommodations** means any establishment or person, as defined herein, including the City and any of its affiliated boards and commissions, or any political or civil subdivision thereof, which offers its services, goods, facilities or accommodations to the general public, but does not include any accommodations which are in their nature private.

**Purchaser** includes any occupant, prospective occupant, lessee, prospective lessee, renter, prospective renter, buyer or prospective buyer.

**Real estate broker** includes any person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of a promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate or solicits for a prospective purchaser, or assists or desists in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate, or negotiates, offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon transfer of any real estate for others, or any person who, for pecuniary gain or expectation of pecuniary gain, conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term **real estate broker** also includes any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange of any such lot or parcel of real estate. A newspaper engaged in the activity of advertising in the normal course of its business shall not be deemed to be a real estate broker.

**Real estate salesman** includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a real estate broker to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell real estate, or any parts thereof, in lots or parcels.

**Real property** includes real estate, lands, leaseholds, commercial or industrial buildings and any vacant land offered for sale or rent on which the construction of a housing accommodation, commercial or industrial building is intended, and any land operated as a trailer camp or rented or leased for the use, parking or storage of mobile homes or house trailers.

**Rooming house** means a house or building where there is one or more bedrooms which the proprietor can spare for the purpose of giving lodgings to such persons as he chooses to receive.

**Sexual Orientation** means a person's identity in relation to the gender to which they are sexually attracted; the fact of being heterosexual, homosexual or bisexual, whether actual or perceived.

**Unlawful discriminatory practices** include only those practices specified in Section 150.03.

**Veteran Status** means a person who has served in the United States Armed Services, and was discharged or release under conditions other than dishonorable.

#### **Sec 150.03 - Unlawful Discriminatory Practices.**

It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification:

- (1) For any employer to discriminate against an individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment on the basis of race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation or gender identity. PROVIDED, that it shall not be an unlawful discriminatory practice for an employer to observe the provisions of any bona fide pension, retirement, group or employee insurance or welfare benefit plan or system not adopted as a subterfuge to evade the provisions of this subsection (1), PROVIDED, however, that an employer may grant preference in hiring to a veteran or a disabled veteran in accordance with the provisions of Section 150.04 of this article without violating the provisions of this ordinance.
- (2) For any employer, employment agency or labor organization, prior to either employment or, in the case of a labor organization, prior to admission to membership, to:

- (a) Elicit any information or make or keep a record of or use any form of application or application blank containing questions or entries concerning the race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation or gender identity of any applicant for employment or membership, except for such forms which shall be kept separate from the application blanks for the administration of any bona-fide affirmative action plan that is in accordance with state and federal laws and regulations, or for the purpose of complying with any state or federal statute, or rule or regulation issued by any agency of the state or federal government, or for the purpose of making reports required by agencies of the state or federal government.
  - (b) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation, or gender identity; or
  - (c) Deny or limit, through a quota system, employment or membership because of race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation or gender identity.
- (3) For any labor organization because of race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation or gender identity of any individual to deny full and equal membership rights to any individual or otherwise to discriminate against such individuals with respect to hire, tenure, terms, conditions or privileges of employment or any other matter, directly or indirectly related to employment.
- (4) For an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs to:
- (a) Select individuals for an apprentice training program on any basis other than their qualifications as determined by objective criteria which permit review;
  - (b) Discriminate against any individual with respect to his right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, or other occupational training or retraining program;
  - (c) Discriminate against any individual in his pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs; or
  - (d) Print or circulate or cause to be printed or circulated any statement, advertisement or publication; or to use any form of application for such programs; or to make any inquiry in connection with such program, which expresses, directly or indirectly, discrimination or any intent to discriminate, with respect to employment or program eligibility or participation, unless based upon a bona fide occupational qualification.

- (5) For any employment agency to fail or refuse to classify properly, refer for employment, or otherwise discriminate against any individual because of his race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation or gender identity.
- (6) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodations or housing accommodations to:
  - (a) Refuse, withhold from or deny to any individual because of his race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation or gender identity, either directly or indirectly, any of the accommodations, advantages, facilities, privileges or services of such place; or
  - (b) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities or services of such place shall be refused, withheld from or denied to any individual on account of race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation or gender identity, or that patronage or custom thereof of any individual belonging to or purporting to be any particular race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation or gender identity, or who is blind or disabled, or because of such individual's genetic information, is unwelcome, objectionable, not acceptable, undesired or not solicited.
- (7) For any person, employer, employment agency, labor organization, owner, real estate broker, real estate salesman or financial institution to:
  - (a) Engage in any form of threats or reprisal, or to engage in, or hire, or conspire with others to commit acts or activities of any nature, the purpose of which is to harass, degrade, embarrass or cause physical harm or economic loss, or to aid, abet, incite, compel or coerce any person to engage in any of the unlawful discriminatory practices defined in this ordinance;
  - (b) Willfully obstruct or prevent any person from complying with the provisions of this ordinance, or to resist, prevent, impede or interfere with any person's compliance with the provisions of this ordinance; or
  - (c) Engage in any form of reprisal or otherwise discriminate against any person who has opposed any practices or acts forbidden under this ordinance or because he has filed a complaint, testified or assisted in any proceeding authorized by, or arising under, this ordinance.

#### **Sec 150.04 - Veteran Preference.**

An employer may grant preference in hiring to a veteran or disabled veteran who has been honorably discharged from the United States Armed Services: PROVIDED, that the veteran or disabled veteran meets all of the knowledge, skills, and eligibility requirements of the job, and provided further that, granting the preference does not violate any state equal employment opportunity law. For purposes of this section, the term veteran means any person who has

received an honorable discharge and: (a) Has provided more than one hundred eighty consecutive days of full-time, active-duty service in the United States Armed Services or Reserve components thereof, including the National Guard; or (b) has a service-connected disability rating fixed by the United States Department of Veteran's Affairs.

**Sec 150.05 – Religious Organizations.**

- (1) With respect to any religious organizations, association, educational institution or society, including, but not limited to, parochial schools affiliated with a particular religion, religious organization or association, this ordinance does not apply to the employment of individuals whose primary duties consist of teaching and spreading doctrine or belief, religious governance, supervision of a religious order, supervision of persons teaching and spreading religious doctrine or belief, or supervision or participation in a religious ritual or worship.
- (2) This ordinance does not prevent a religious organization, association, educational institution or society from limiting membership or access to any of its religious services or activities to only those persons who are members of the same religion.
- (3) The refusal, either verbal or written, of a religious leader to perform a religious ceremony shall not violate the policy of this ordinance.
- (4) Nothing in this ordinance shall be construed to violate the rights of freedom of religion guaranteed by the First Amendment to the United States Constitution or Article III, Section 15 of the West Virginia Constitution.

**Sec 150.06 – Existing Law.**

Nothing in this ordinance shall be construed to violate the rights of freedom of speech or press guaranteed by the First Amendment to the United States Constitution or Article III, Section 7 of the West Virginia Constitution, or to otherwise repeal any other laws of the State of West Virginia or ordinances of the City of Parkersburg, which shall remain in full force and effect, unless otherwise amended.

**Sec. 150.07 – Non-Exclusivity of Remedies.**

- (1) Nothing herein shall be construed to preclude a person subjected to discrimination as defined herein from exercising any and all rights, or pursuing any and all remedies, provided for under federal, state and/or local law, including, but not limited to Chapter 5, Article 11 of the West Virginia Code, the West Virginia Human Rights Act, or Chapter 5, Article 11A of the West Virginia Code, the West Virginia Fair Housing Act, to the extent such person is a protected class under applicable law, and the use or exercise of such procedures, rights or remedies provided therein shall not otherwise preclude such person from exercising any of the procedures, rights or remedies created herein to the extent permitted by law.
- (2) The City Council of the City of Parkersburg may hereafter create a non-judicial "Conciliation Council" for the purpose of holding voluntary conferences with parties in interest or with parties with concerns or complaints regarding discrimination.



**Sec. 150.08 – Severability.**

The provision of this ordinance shall be liberally construed to accomplish its objective and purposes. If any provision of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not otherwise affect or invalidate the other provisions hereto, all of which are hereby declared, and shall be construed, to be separate and severable.

Sponsored by Councilmen: Fox, Mercer, Carpenter