

Meeting Date: 12/17/2013

Report Type: Staff/Discussion

Report ID: 2013-00930

Title: Proposed amendments to various sections of the City Code related to Non-Discrimination and Equality and the City's Domestic Partnership Registry (In lieu of PFP published within 10 days after adoption as required by Sacramento City Charter section 32(d))

Location: Citywide

Issue: The City of Sacramento has a long-standing commitment to ensuring equal opportunities for residents, visitors, and employees. From time to time it is necessary to update the City's ordinances and policies to ensure they represent the latest and most appropriate protection language. In keeping with this policy, the Law and Legislation Committee has recommended the City Council approve updates to the City's Non-Discrimination Ordinance and Domestic Partnership Ordinance.

Recommendation: Pass 1) an Ordinance amending the City's Non-Discrimination and Equality ordinance; and 2) an Ordinance amending the Domestic Partnership Registry ordinance.

Contact: Randi Knott, Intergovernmental Relations Officer, (916) 808-5771, Office of the City Manager

Presenter: Randi Knott, Intergovernmental Relations Officer, (916) 808-5771, Office of the City Manager

Department: City Manager / Human Resources

Division: Executive Office

Dept ID: 02001011

Attachments:

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- 2-Background
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- 5-Domestic Partnership Ordinance Clean
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City Attorney Review

Approved as to Form

Sandra Talbott

12/12/2013 11:25:15 AM

Approvals/Acknowledgements

Department Director or Designee: Mark Prestwich - 12/10/2013 4:34:02 PM

Description/Analysis

Issue Detail: The City of Sacramento is home to people of every sex, race, color, religion, ancestry, national origin, mental or physical disability, sexual orientation, and gender identity. Proclaimed “the most diverse and integrated city in America”, Sacramento embraces the dignity, humanity, and individuality of all people and strives to provide a safe and welcoming environment for residents and visitors of every conceivable background.

The proposed amendments seek to amplify, update and clarify the City’s Code’s non-discrimination provisions, as well as to make Sacramento consistent with state law, where state law is stronger. It clarifies that the City of Sacramento prohibits discrimination on the basis of a person’s gender identity, incorporating and augmenting existing protections under state law.

Changes are also proposed to the City’s domestic partnership ordinance in light of the legality of same sex marriage in California. In 1992, as part of the City’s ongoing commitment to ensuring equal opportunities and equal treatment for all residents, Sacramento enacted a domestic partnership law that extended certain rights and benefits to committed gay and lesbian couples residing in the City. This law, considered cutting edge policy at the time, is now out of date in light of the state law recognizing gay and lesbian couples have full marriage rights. Therefore, the City’s domestic partnership law is now duplicative of rights and protections under state law.

Policy Considerations: See issue detail.

Economic Impacts: None

Environmental Considerations: N/A

Sustainability: N/A

Commission/Committee Action: The Law & Legislation Committee voted to recommend approval of the updates to the City’s Non-Discrimination Code and the City’s Domestic Partnership Registry on October 22, 2013.

Rationale for Recommendation: The proposed amendments seek to amplify, update and clarify the City’s Code’s non-discrimination provisions, as well as to make Sacramento consistent with state law, where state law is stronger and

repeals the City's domestic partnership ordinance to align with state and federal laws which allow for greater legal standing for same sex couples.

Financial Considerations: N/A

Emerging Small Business Development (ESBD): N/A

Background

The Municipal Equality Index (MEI), a program of the Human Rights Campaign (HRC), is the first nationwide evaluation of municipal laws affecting the LGBT community. It examines the laws, policies and services of municipalities from every state in the nation and rates them on the basis of the inclusivity of LGBT people who live and work in those cities. In the 2012 MEI, a snapshot of 137 municipalities of varying sizes was rated on six different criteria:

- Non-discrimination laws
- Relationship recognition
- Employment Practices
- Inclusiveness of city services
- Law enforcement
- Municipal leadership for equality

The 2012 MEI found that while many cities lag behind in protections for LGBT people, some of the most LGBT-friendly policies in the country have been innovated and implemented at the municipal level. Only eleven cities scored 100% and over 25% of cities scored over 80%.

While the City of Sacramento scored 79%, we believe we can do better. Several factors went into the scoring and after working with the National Center for Lesbian Rights (NCLR) under the leadership of Council Member Steve Hansen, staff worked to address some of the deficiencies in our policies and clarify some errors in our scoring. Two of the biggest barriers to reaching the highest possible score are addressed in this staff report. Others, including the appointment of an LGBT liaison, active employment recruitment and participation by the City in the community's pride parade, have already been addressed.

Staff was provided with a draft of 'omnibus legislation' by Cooley LLP, a law firm working with the NCLR to assist interested cities in improving their rating. Most, but not all, of the recommendations have been incorporated into the amended ordinances.

It is important to call out a few differences between the amendments proposed by Cooley LLP and the amendments proposed by staff. First, the NCLR called for the City to require additional health coverage beyond the State requirements in relations to sex reassignment. At this time, we have received confirmation that both of the City's health providers, Kaiser

Permanente and Health Net, provide sex reassignment coverage as required by state law. However, the additional recommendations from the NCLR must be negotiated into the contracts with these providers and addressed in labor negotiations with covered groups. It is the intent of staff to look into these additional measures when these contracts are up for renegotiation.

Further, the NCLR recommended an extensive notification provision upon amendment of the City's domestic partnership ordinance that would be difficult, if not impossible, to implement. In lieu, information will be noted on the City's website and available through the City Clerk's office where the ordinance is administered. The applicable code is recommended to sunset in three years. Couples seeking domestic partnership registration will be directed by City staff and on the City's website to the State of California's registry now that same sex marriage is legal in California. In order to ensure that citizens who currently have a domestic partnership established by the City of Sacramento, staff is recommending that the ordinance stay in effect in its amended form to ensure that couples have sufficient time to seek other options available under state law.

Other minor changes were made to reflect the specific nature of the government structure in the City.

ORDINANCE NO. _____

Adopted by the Sacramento City Council

Date adopted

AN ORDINANCE AMENDING VARIOUS SECTIONS IN TITLES 2, 3, 5, AND 9 OF THE SACRAMENTO CITY CODE RELATED TO NON-DISCRIMINATION AND EQUALITY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Legislative Findings and Intent.

1. The City of Sacramento is home to people of every sex, race, color, religion, ancestry, national origin, mental or physical disability, sexual orientation, and gender identity. Proclaimed “the most diverse and integrated city in America,” Sacramento embraces the dignity, humanity, and individuality of all people and strives to provide a safe and welcoming environment for inhabitants and visitors of every conceivable background.
2. Sacramento’s proud heritage of diversity results from its longstanding commitment to ensuring equal opportunities and equal treatment for all residents and visitors. Complementing and often augmenting protections under State law, the Sacramento City Code provides protection to historically disadvantaged minorities in the areas of education, housing, employment, city contracting, access to credit, access to city services, programs, activities, and more. These laws not only advance moral and social imperatives—by ensuring that all citizens are able to realize their fullest potential—but are critical to Sacramento’s ability to attract and retain businesses, employees, residents, students, immigrants, and visitors—the building blocks of economic growth and prosperity.
3. This legislation seeks to amplify, update, and clarify the Sacramento City Code’s nondiscrimination provisions, as well as to make the Sacramento City Code consistent with State law, where State laws are stronger. It clarifies that the City of Sacramento prohibits discrimination on the basis of a person’s gender identity, incorporating and augmenting existing protections under state law. Other provisions declare support for the rights of members of Sacramento’s lesbian, gay, bisexual, and transgender. The legislation also adds broadly inclusive nondiscrimination clauses to provisions of the City Code relating to City contracts; City programs, services and activities; alcoholic beverage licenses; and more—making even clearer that there is no place in Sacramento for discrimination or intolerance.

SECTION 2.

Section 2.08.030 of the Sacramento City Code is amended as follows:

2.08.030 Personnel Matters.

- A. The City shall not discriminate on the basis of age, ancestry, color, disability (physical or mental), genetic information, gender (including gender identity and gender expression),

marital status, medical condition, national origin, race, religion, sex (including pregnancy, childbirth, breastfeeding or related medical conditions) or sexual orientation, with respect to a City employee's salary, hours of work, benefits, or any other terms or conditions of employment.

- B. The city council shall enact a resolution covering salary administration, hours of work, and other terms and conditions of employment, including longevity pay under City Charter Section 108, for all officers and employees not represented by a recognized employee organization.
- C. Longevity pay provisions implementing City Charter Section 108 for employees represented by recognized employee organizations shall be placed into the respective agreements between the city and those organizations.
- D. In order to properly administer sick leave privileges and benefits, the civil service board may adopt rules and regulations determining the eligibility for sick leave, the granting and use of sick leave, the amount and method of accumulating unused sick leave and the purpose for which such benefits may be used. Such definitions, interpretations, rules and regulations adopted by the board shall be conclusive and shall apply to all city employees.
- E. All health plans offered by the City must comply with the Insurance Gender Nondiscrimination Act, codified in part at California Health and Safety Code section 1365.5, as those provisions now exist or are hereafter amended or renumbered. Health plans offered by the city may not discriminate against individuals because of their gender, including gender identity and gender expression, and may not limit or exclude benefits or coverage on those, or any other unlawful bases.
- F. The city manager shall prepare administrative policies and procedures sufficient to carry out the intent of this section.

SECTION 3.

Section 3.54.010 of the Sacramento City Code is amended as follows:

3.54.010 Findings and intent

Employee benefits comprise a substantial portion of total employee compensation.

Discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work.

City, state and federal laws prohibit discrimination based on marital status, sexual orientation, and gender identity.

Contractors with the city of Sacramento are required to comply with applicable nondiscrimination laws.

It is the city's intent, through the contracting practices outlined herein, to equalize the total compensation paid to similarly situated employees with spouses and employees with domestic partners.

The city council finds and determines that the public safety, health, convenience, and general welfare will be furthered by requiring that public funds be expended in a manner so as to prohibit contractors from discriminating between employees with spouses and employees with domestic partners, and from discriminating between the spouses and domestic partners of such employees, in the provision of employee benefits.

SECTION 4.

A. Subsection A of section 3.60.020 of the Sacramento City Code is amended as follows:

A. In determining whether a bidder is responsible, consideration shall be given to: (1) the quality of a public project to be provided by the bidder; (2) the ability, capacity and skill of the bidder to perform the contract; (3) the ability of the bidder to perform the contract within the time specified, without delay; (4) the character, integrity, reputation, judgment, experience and efficiency of the bidder, excluding all discriminatory consideration of age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation; and (5) the quality of the bidder's performance on previous contracts with the city.

B. Except as specifically amended in subsection A above, section 3.60.020 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 5.

Section 3.60.190 of the Sacramento City Code is amended as follows:

3.60.190 Apprentices

Nothing in this chapter shall prevent the employment of properly registered apprentices upon public projects whether such work be done directly under contract award, or indirectly by or under subcontract, partnership, day labor, station work, piece work, or by any other arrangement whatsoever. Every such apprentice shall be paid the applicable apprentice prevailing per diem wage rate according to an apprentice wage progression schedule available from department of apprenticeship standards (DAS). Apprentices employed, can only be assigned to perform work of the craft or trade to which the apprentice is registered. Work of the craft or trade consists of job duties normally assigned to journeymen in the apprenticeable occupation. Only apprentices who are in training under apprenticeship standards and who have written apprentice agreements may be employed on public projects in apprenticeable occupations.

All contractors or subcontractors who choose to employ apprentices shall comply with section 1777.5 et seq., of the California Labor Code, as those provisions now exist or are hereafter amended or renumbered. Contractors and subcontractors shall not discriminate among otherwise qualified employees as apprentices on the ground of age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation. The prime contractor shall be responsible for complying with these provisions for all apprenticeable occupations.

In the event that a contractor or subcontractor who chooses to employ apprentices fails to comply with the provisions of this section, the city may report the contractor or subcontractor to

the director of industrial relations and the California Apprenticeship Council for action as necessary under section 1777.7 of the California Labor Code, as that provision now exists or is hereafter amended or renumbered.

SECTION 6.

A. Subsection A.2.g of section 5.08.060 of the Sacramento City Code is amended as follows:

g. The background of the proposed licensee, and the history, including the nature and extent of problems on any premises where he or she has operated a licensed premises in the past, excluding any discriminatory consideration of the proposed licensee's age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation;

B. Except as specifically amended in subsection A above, section 5.08.060 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 7.

Section 5.28.1420 of the Sacramento City Code is amended as follows:

5.28.1420 Discrimination in service prohibited.

No franchisee shall deny service, deny access or otherwise discriminate against subscribers, channel users or general citizens on the basis of age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation..

It shall be the right of all subscribers, subject only to the payment of lawful rates and reasonable terms and conditions established by a franchisee or the board of directors of the cable television commission, to receive and continue to receive services. Initial subscription to service shall not be denied to any person on the basis of the person's credit rating or for other reasons relating to economic condition.

SECTION 8.

Section 5.28.2420 of the Sacramento City Code is amended as follows:

5.28.2420 Discrimination in service prohibited.

No license shall deny service, deny access or otherwise discriminate against subscribers, channel users or general citizens on the basis of age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation .

SECTION 9.

A. Subsection D of section 8.08.020 of the Sacramento City Code is amended as follows:

D. Neighborhood health and safety must be protected in a way which does not promote housing discrimination on the basis of age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status,

medical condition, national origin, race, religion, sex, or sexual orientation or promote evictions based on prejudice, unfounded fears, or personal animosities.

- B. Except as specifically amended in subsection A above, section 8.08.020 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 10.

- A. Section 9.12.140 of the Sacramento City Code is amended as follows:

- 1. The definition of “harmful” is repealed.
- 2. The definition “Harmful matter” is added to read as follows:

“Harmful matter” is ascribed the same meaning as the term “harmful matter” prescribed by paragraph (a) of section 313 of the California Penal Code, as that section may hereafter be amended or renumbered. Notwithstanding the foregoing, matter shall not be deemed “harmful matter” based, in whole or in part, on the sexual orientation or gender identity of the person(s) involved in the sexual conduct at issue.

- B. Except as specifically amended in subsection A above, section 9.12.140 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 11.

- A. Subsection C.2 of section 9.16.140 of the Sacramento City Code is amended as follows:

- 2. Where its application results in or is coupled with an act prohibited by the Unruh Civil Rights Act or any other provision of law relating to prohibited discrimination against any person on account of age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation.

- B. Except as specifically amended in subsection A above, section 9.16.140 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 12.

The title of Chapter 9.20 of the Sacramento City Code is amended as follows:

Chapter 9.20 DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY

SECTION 13.

A. The definition of “gender identity” is added to section 9.20.010 of the Sacramento City Code as follows:

“Gender identity” means a person’s various individual attributes as they are understood to be masculine or feminine. Gender identity includes an individual’s actual or perceived self-asserted gender identity or gender expression whether or not different from that traditionally associated with the person’s actual or perceived sex at birth.

B. Except as specifically amended in subsection A above, section 9.20.010 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 14.

A. Subsection C of section 9.20.020 of the Sacramento City Code is amended as follows:

C. Notices.

1. Requirements. Every employer with 15 or more employees, every labor organization with 15 or more members, and every employment agency shall post and keep posted in every place upon its premises where notices to employees, applicants for employment, and members are customarily posted, the following notice:

Discrimination on the basis of sexual orientation or gender identity is prohibited by law. Chapter 9.20 of the Sacramento City Code.

2. Alternate Compliance. The provisions of this subsection may be complied with by adding the words “sexual orientation or gender identity” to all notices required by federal or state law, and indicating on the notice that discrimination on the basis of sexual orientation or gender identity is prohibited by chapter 9.20 of the Sacramento City Code.

3. The failure to post or keep posted the notice pursuant to subsection C1) or C.2. of this section shall not operate to toll the running of the limitation period provided in section 9.20.100.

B. Except as specifically amended in subsection A above, section 9.20.020 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 15.

Section 9.20.030 of the Sacramento City Code is amended as follows:

9.20.030 Business establishments.

A. Unlawful Business Practice.

1. In General. It is an unlawful business practice for any person to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any business establishment on the basis (in whole or in part) of such person's sexual orientation or gender identity.

2. Credit. It is an unlawful business practice for any person to deny credit to any person on the basis (in whole or in part) of such person's sexual orientation or gender identity.

3. Advertising. It is an unlawful business practice for any person to make, print, publish, advertise or disseminate in any way any notice, statement or advertisement with respect to any business establishment which states that such establishment engages or will engage in any unlawful practice as defined in this section.

SECTION 16.

A. Subsection A of section 9.20.040 of the Sacramento City Code related to real estate transactions is amended as follows:

A. Unlawful Real Estate Practices. It is an unlawful real estate practice for any person to do any of the following acts wholly or partially based on sexual orientation or gender identity:

1. To terminate, or fail or refuse to initiate or conduct any transaction in real property, including, but not limited to, the rental thereof; to include in the terms or conditions of a transaction in real property any clause, condition or restriction; or falsely to represent that an interest in real property is not available for a transaction in connection therewith, including, but not limited to, rental or leasing thereof.

2. To refuse to lend money, guarantee the loan, accept the deed of trust or mortgage, or otherwise refuse to make available funds for the purchase, acquisition, construction, alteration, rehabilitation, repair or maintenance of real property; or impose different conditions on such financing; or refuse to provide title or other insurance relating to the ownership or use of any interest in real property.

3. To refuse or restrict facilities, services, repairs or improvements for any tenant or lessee.

4. To make, print, publish, advertise or disseminate, in any way, any notice, statement or advertisement with respect to financing related to any such transaction which states that any unlawful real estate practice as defined in this section will be engaged in.

B. Except as specifically amended in subsection A above, section 9.20.040 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 17.

A. Subsection A of section 9.20.050 of the Sacramento City Code related to city facilities and services is amended as follows:

A. Unlawful Service Practices.

1. City Facilities. It is an unlawful service practice for any person to deny any individual the full and equal enjoyment of, or to impose different terms and conditions upon the availability of, any service program or facility wholly or partially funded or otherwise supported by the city on the basis, in whole or in part, of the individual's sexual orientation or gender identity.

2. City Services. It is an unlawful service practice for any person to deny any individual the full and equal enjoyment of, or to impose different terms or conditions on the availability of, any city service on the basis, in whole or in part, of such individual's sexual orientation or gender identity.

3. Supported Facilities and Services. It is an unlawful service practice for any person to deny any individual the full and equal enjoyment of, or to impose different terms and conditions upon the availability of, any service, program or facility wholly or partially funded or otherwise supported by the city on the basis, in whole or in part, of the individual's sexual orientation or gender identity. This subsection shall not apply to any facility, service or program which does not receive any financial assistance from the city which is not provided in the public generally.

4. Advertising. It is an unlawful service practice for the city or any person employed by the city to make, print, publish, advertise or disseminate in any way any notice, statement or advertisement with respect to any service or facility provided by the city which states that the city or any person employed by the city engages or will engage in an unlawful service practice.

B. Except as specifically amended in subsection A above, section 9.20.050 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 18.

A. Subsection A of section 9.20.060 of the Sacramento City Code related to educational institutions is amended as follows:

A. Unlawful Educational Practices.

1. Admission. It is an unlawful educational practice for any person to deny admission to an educational institution, or to impose different terms or conditions on admission, on the basis, in whole or in part, of such individual's sexual orientation or gender identity.

2. Services. It is an unlawful educational practice for any person to deny any individual the full and equal enjoyment of, or to impose different terms or conditions upon the availability of, any service or program offered by an educational institution on the basis, in whole or in part, of such individual's sexual orientation or gender identity.

3. Facilities. It is an unlawful educational practice for any person to deny any individual the full and equal enjoyment of, or to impose different terms or conditions upon the availability of, any facility owned or operated by an educational institution on the basis, in whole or in part, of such individual's sexual orientation or gender identity.

4. Advertising. It is an unlawful educational practice for an educational institution or any person employed by an educational institution to make, print, publish, advertise or disseminate in any way any notice, statement or advertisement with respect to that

educational institution which states that such institution engages in, or will engage in, an unlawful educational practices.

- B. Except as specifically amended in subsection A above, section 9.20.060 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 19.

Section 9.20.110 of the Sacramento City Code is amended as follows:

9.20.110 Limitation on action.

Judicial actions under this chapter must be filed within one year and six months of the time which plaintiff knew or should have known of:

- A. The defendant's decision or action which plaintiff alleges is based on plaintiff's sexual orientation or gender identity; or
- B. The defendant's act of retaliation against plaintiff in violation of section 9.20.070.

SECTION 20.

Section 9.28.010 of the Sacramento City Code is amended as follows:

9.28.010 Findings and purpose.

After public hearing and receipt of testimony, the city council finds and declares:

That a significant barrier to the advancement of women and minorities in the business and professional life of the city exists by virtue of the discriminatory practices of certain clubs or organizations which are not distinctly private and where business is frequently conducted.

That while such clubs or organizations may avowedly be formed for social or civic purposes, the extent to which many of the activities therein have had a prejudicial impact on the business, professional and employment opportunities of women and minorities cannot be ignored or minimized.

That business activity most frequently occurs in clubs or organizations having more than 200 members and provide regular meal services, which facilitates conducting such business.

That the dues and expenses of members at such clubs or organizations are often paid by their employers because the employees' activities at said clubs or organizations serve to develop and enhance the employer's business.

That such clubs or organizations also rent their facilities for use as conference rooms for business meetings attended by nonmembers.

That the city has a compelling interest in eradicating discrimination based on sex, race, color, religion, ancestry, national origin, handicap, sexual orientation, or gender identity in order to assure all of its citizens a fair and equal opportunity to participate in the business and professional life of the city. Conduct and practices which exclude persons from entry or consideration for membership in or the full advantages and privileges of

such membership on these bases are discriminatory and unacceptable, are injurious to the body politic and to the business community in the city. Accordingly, the city's interest in eliminating such practices in clubs or organizations covered by this chapter outweighs the interest of their members in private association.

SECTION 21.

A. Subsection A of section 9.28.030 of the Sacramento City Code related to prohibition against discrimination is amended as follows:

A. It is unlawful for a club which is not distinctly private to deny to any person entry to facilities at, membership in, or the full enjoyment of said club or organization on the basis of sex, race, color, religion, ancestry, national origin, handicap, sexual orientation, or gender identity.

B. Except as specifically amended in subsection A above, Section 9.28.030 of the Sacramento City Code remains unchanged and in full force and effect.

ORDINANCE NO. _____

Adopted by the Sacramento City Council

Date adopted

AN ORDINANCE AMENDING VARIOUS SECTIONS IN TITLES 2, 3, 5, AND 9 OF THE SACRAMENTO CITY CODE RELATED TO NON-DISCRIMINATION AND EQUALITY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Legislative Findings and Intent.

1. The City of Sacramento is home to people of every sex, race, color, religion, ancestry, national origin, mental or physical disability, sexual orientation, and gender identity. Proclaimed “the most diverse and integrated city in America,” Sacramento embraces the dignity, humanity, and individuality of all people and strives to provide a safe and welcoming environment for inhabitants and visitors of every conceivable background.
2. Sacramento's proud heritage of diversity results from its longstanding commitment to ensuring equal opportunities and equal treatment for all residents and visitors. Complementing and often augmenting protections under State law, the Sacramento City Code provides protection to historically disadvantaged minorities in the areas of education, housing, employment, city contracting, access to credit, access to city services, programs, activities, and more. These laws not only advance moral and social imperatives—by ensuring that all citizens are able to realize their fullest potential—but are critical to Sacramento's ability to attract and retain businesses, employees, residents, students, immigrants, and visitors—the building blocks of economic growth and prosperity.
3. This legislation seeks to amplify, update, and clarify the Sacramento City Code's nondiscrimination provisions, as well as to make the Sacramento City Code consistent with State law, where State laws are stronger. It clarifies that the City of Sacramento prohibits discrimination on the basis of a person's gender identity, incorporating and augmenting existing protections under state law. Other provisions declare support for the rights of members of Sacramento's lesbian, gay, bisexual, and transgender. The legislation also adds broadly inclusive nondiscrimination clauses to provisions of the City Code relating to City contracts; City programs, services and activities; alcoholic beverage licenses; and more—making even clearer that there is no place in Sacramento for discrimination or intolerance.

SECTION 2.

Section 2.08.030 of the Sacramento City Code is amended as follows:

2.08.030 Personnel Matters.

- A. The City shall not discriminate on the basis of age, ancestry, color, disability (physical or mental), genetic information, gender (including gender identity and gender expression),

marital status, medical condition, national origin, race, religion, sex (including pregnancy, childbirth, breastfeeding or related medical conditions) or sexual orientation, with respect to a City employee's salary, hours of work, benefits, or any other terms or conditions of employment.

A.B. The city council shall enact a resolution covering salary administration, hours of work, and other terms and conditions of employment, including longevity pay under City Charter Section 108, for all officers and employees not represented by a recognized employee organization.

B.C. Longevity pay provisions implementing City Charter Section 108 for employees represented by recognized employee organizations shall be placed into the respective agreements between the city and those organizations.

C.D. In order to properly administer sick leave privileges and benefits, the civil service board may adopt rules and regulations determining the eligibility for sick leave, the granting and use of sick leave, the amount and method of accumulating unused sick leave and the purpose for which such benefits may be used. Such definitions, interpretations, rules and regulations adopted by the board shall be conclusive and shall apply to all city employees.

E. All health plans offered by the City must comply with the Insurance Gender Nondiscrimination Act, codified in part at California Health and Safety Code section 1365.5, as those provisions now exist or are hereafter amended or renumbered. Health plans offered by the city may not discriminate against individuals because of their gender, including gender identity and gender expression, and may not limit or exclude benefits or coverage on those, or any other unlawful bases.

F. The city manager shall prepare administrative policies and procedures sufficient to carry out the intent of this section.

SECTION 3.

Section 3.54.010 of the Sacramento City Code is amended as follows:

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Employee benefits comprise a substantial portion of total employee compensation.

Discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work.

City, state and federal laws prohibit discrimination based on marital status~~-,~~ sexual orientation, and gender identity.

Contractors with the city of Sacramento are required to comply with applicable nondiscrimination laws.

It is the city's intent, through the contracting practices outlined herein, to equalize the total compensation paid to similarly situated employees with spouses and employees with domestic partners.

The city council finds and determines that the public safety, health, convenience, and general welfare will be furthered by requiring that public funds be expended in a manner so as to prohibit contractors from discriminating between employees with spouses and employees with domestic partners, and from discriminating between the spouses and domestic partners of such employees, in the provision of employee benefits.

SECTION 4.

A. Subsection A of section 3.60.020 of the Sacramento City Code is amended as follows:

A. In determining whether a bidder is responsible, consideration shall be given to: (1) the quality of a public project to be provided by the bidder; (2) the ability, capacity and skill of the bidder to perform the contract; (3) the ability of the bidder to perform the contract within the time specified, without delay; (4) the character, integrity, reputation, judgment, experience and efficiency of the bidder, excluding all discriminatory consideration of age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation; and (5) the quality of the bidder's performance on previous contracts with the city.

B. Except as specifically amended in subsection A above, section 3.60.020 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 5.

Section 3.60.190 of the Sacramento City Code is amended as follows:

3.60.190 Apprentices

Nothing in this chapter shall prevent the employment of properly registered apprentices upon public projects whether such work be done directly under contract award, or indirectly by or under subcontract, partnership, day labor, station work, piece work, or by any other arrangement whatsoever. Every such apprentice shall be paid the applicable apprentice prevailing per diem wage rate according to an apprentice wage progression schedule available from department of apprenticeship standards (DAS). Apprentices employed, can only be assigned to perform work of the craft or trade to which the apprentice is registered. Work of the craft or trade consists of job duties normally assigned to journeymen in the apprenticeable occupation. Only apprentices who are in training under apprenticeship standards and who have written apprentice agreements may be employed on public projects in apprenticeable occupations.

All contractors or subcontractors who choose to employ apprentices shall comply with Section section 1777.5 et seq., of the California Labor Code, as those provisions now exist or are hereafter amended or renumbered. Contractors and subcontractors shall not discriminate among otherwise qualified employees as apprentices on the ground of ~~sex, race, religion, national origin, sexual preference, physical condition, martial status, age, ancestry, or color~~ sex, race, religion, national origin, sexual preference, physical condition, marital status, age, ancestry, or color age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation. The prime contractor shall be responsible for complying with these provisions for all apprenticeable occupations.

In the event that a contractor or subcontractor who chooses to employ apprentices fails to comply with the provisions of this section, the city may report the contractor or subcontractor to the director of industrial relations and the California Apprenticeship Council for action as necessary under ~~Section~~ ~~Section-section~~ 1777.7 of the California Labor Code, as that provision now exists or is hereafter amended or renumbered.

SECTION 6.

A. Subsection A.2.g of section 5.08.060 of the Sacramento City Code is amended as follows:

g. The background of the proposed licensee, and the history, including the nature and extent of problems on any premises where he or she has operated a licensed premises in the past, excluding any discriminatory consideration of the proposed licensee's age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation;

B. Except as specifically amended in subsection A above, section 5.08.060 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 7.

Section 5.28.1420 of the Sacramento City Code is amended as follows:

5.28.1420 Discrimination in service prohibited.

No franchisee shall deny service, deny access or otherwise discriminate against subscribers, channel users or general citizens on the basis of age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation. ~~race, color, religion, national origin or sex.~~

It shall be the right of all subscribers, subject only to the payment of lawful rates and reasonable terms and conditions established by a franchisee or the board of directors of the cable television commission, to receive and continue to receive services. Initial subscription to service shall not be denied to any person on the basis of the person's credit rating or for other reasons relating to economic condition.

SECTION 8.

Section 5.28.2420 of the Sacramento City Code is amended as follows:

5.28.2420 Discrimination in service prohibited.

No license shall deny service, deny access or otherwise discriminate against subscribers, channel users or general citizens on the basis of age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation. ~~race, color, religion, national origin or sex.~~

SECTION 9.

A. Subsection D of section 8.08.020 of the Sacramento City Code is amended as follows:

D. Neighborhood health and safety must be protected in a way which does not promote housing discrimination on the basis of age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation ~~race, color, religion, national origin or sex~~ or promote evictions based on prejudice, unfounded fears, or personal animosities.

B. Except as specifically amended in subsection A above, section 8.08.020 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 10.

A. Section 9.12.140 of the Sacramento City Code is amended as follows:

1. The definition of “harmful” is repealed.

2. The definition “Harmful matter” is added to read as follows:

“Harmful matter” is ascribed the same meaning as the term “harmful matter” prescribed by paragraph (a) of section 313 of the California Penal Code, as that section may hereafter be amended or renumbered. Notwithstanding the foregoing, matter shall not be deemed “harmful matter” based, in whole or in part, on the sexual orientation or gender identity of the person(s) involved in the sexual conduct at issue.

B. Except as specifically amended in subsection A above, section 9.12.140 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 11.

A. Subsection C.2 of section 9.16.140 of the Sacramento City Code is amended as follows:

2. Where its application results in or is coupled with an act prohibited by the Unruh Civil Rights Act or any other provision of law relating to prohibited discrimination against any person on account of age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation ~~sex, race, color, religion, creed, ancestry, national origin, disability, medical condition, marital status, sexual orientation, race, color, religion, national origin or sex~~

B. Except as specifically amended in subsection A above, section 9.16.140 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 12.

The title of Chapter 9.20 of the Sacramento City Code is amended as follows:

Chapter 9.20 DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY

SECTION 13.

A. The definition of “gender identity” is added to section 9.20.010 of the Sacramento City Code as follows:

“Gender identity” means a person’s various individual attributes as they are understood to be masculine or feminine. Gender identity includes an individual’s actual or perceived self-asserted gender identity or gender expression whether or not different from that traditionally associated with the person’s actual or perceived sex at birth.

B. Except as specifically amended in subsection A above, section 9.20.010 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 14.

A. Subsection C of section 9.20.020 of the Sacramento City Code is amended as follows:

C. Notices.

1. Requirements. Every employer with ~~fifteen (15)~~ or more employees, every labor organization with ~~fifteen (15)~~ or more members, and every employment agency shall post and keep posted in every place upon its premises where notices to employees, applicants for employment, and members are customarily posted, the following notice:

Discrimination on the basis of sexual orientation or gender identity is prohibited by law. Chapter 9.20 of the Sacramento City Code.

2. Alternate Compliance. The provisions of this subsection may be complied with by adding the words “sexual orientation or gender identity” to all notices required by federal or state law, and indicating on the notice that discrimination on the basis of sexual orientation or gender identity is prohibited by ~~C~~chapter 9.20 of the Sacramento City Code.

3. The failure to post or keep posted the notice pursuant to subsection ~~((C))(1)~~ or ~~((C))(2)-)~~ of this section shall not operate to toll the running of the limitation period provided in ~~SectionSection section 9.20.100 of this chapter. of this chapter.~~

B. Except as specifically amended in subsection A above, section 9.20.020 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 15.

Section 9.20.030 of the Sacramento City Code is amended as follows:

9.20.030 Business establishments.

A. Unlawful Business Practice.

1. In General. It is an unlawful business practice for any person to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any business establishment on the basis (in whole or in part) of such person's sexual orientation or gender identity.

2. Credit. It is an unlawful business practice for any person to deny credit to any person on the basis (in whole or in part) of such person's sexual orientation or gender identity.

3. Advertising. It is an unlawful business practice for any person to make, print, publish, advertise or disseminate in any way any notice, statement or advertisement with respect to any business establishment which states that such establishment engages or will engage in any unlawful practice as defined in this section.

SECTION 16.

A. Subsection A of section 9.20.040 of the Sacramento City Code related to real estate transactions is amended as follows:

A. Unlawful Real Estate Practices. It is an unlawful real estate practice for any person to do any of the following acts wholly or partially based on sexual orientation or gender identity:

1. To terminate, or fail or refuse to initiate or conduct any transaction in real property, including, but not limited to, the rental thereof; to include in the terms or conditions of a transaction in real property any clause, condition or restriction; or falsely to represent that an interest in real property is not available for a transaction in connection therewith, including, but not limited to, rental or leasing thereof.

2. To refuse to lend money, guarantee the loan, accept the deed of trust or mortgage, or otherwise refuse to make available funds for the purchase, acquisition, construction, alteration, rehabilitation, repair or maintenance of real property; or impose different conditions on such financing; or refuse to provide title or other insurance relating to the ownership or use of any interest in real property.

3. To refuse or restrict facilities, services, repairs or improvements for any tenant or lessee.

4. To make, print, publish, advertise or disseminate, in any way, any notice, statement or advertisement with respect to financing related to any such transaction which states that any unlawful real estate practice as defined in this section will be engaged in.

B. Except as specifically amended in subsection A above, section 9.20.040 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 17.

A. Subsection A of section 9.20.050 of the Sacramento City Code related to city facilities and services is amended as follows:

A. Unlawful Service Practices.

1. City Facilities. It is an unlawful service practice for any person to deny any individual the full and equal enjoyment of, or to impose different terms and conditions upon the availability of, any service program or facility wholly or partially funded or otherwise supported by the city on the basis, in whole or in part, of the individual's sexual orientation or gender identity.

2. City Services. It is an unlawful service practice for any person to deny any individual the full and equal enjoyment of, or to impose different terms or conditions on the availability of, any city service on the basis, in whole or in part, of such individual's sexual orientation or gender identity.

3. Supported Facilities and Services. It is an unlawful service practice for any person to deny any individual the full and equal enjoyment of, or to impose different terms and conditions upon the availability of, any service, program or facility wholly or partially funded or otherwise supported by the city on the basis, in whole or in part, of the individual's sexual orientation or gender identity. This subsection shall not apply to any facility, service or program which does not receive any financial assistance from the city which is not provided in the public generally.

4. Advertising. It is an unlawful service practice for the city or any person employed by the city to make, print, publish, advertise or disseminate in any way any notice, statement or advertisement with respect to any service or facility provided by the city which states that the city or any person employed by the city engages or will engage in an unlawful service practice.

B. Except as specifically amended in subsection A above, section 9.20.050 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 18.

A. Subsection A of section 9.20.060 of the Sacramento City Code related to educational institutions is amended as follows:

A. Unlawful Educational Practices.

1. Admission. It is an unlawful educational practice for any person to deny admission to an educational institution, or to impose different terms or conditions on admission, on the basis, in whole or in part, of such individual's sexual orientation or gender identity.

2. Services. It is an unlawful educational practice for any person to deny any individual the full and equal enjoyment of, or to impose different terms or conditions upon the availability of, any service or program offered by an educational institution on the basis, in whole or in part, of such individual's sexual orientation or gender identity.

3. Facilities. It is an unlawful educational practice for any person to deny any individual the full and equal enjoyment of, or to impose different terms or conditions upon the availability of, any facility owned or operated by an educational institution on the basis, in whole or in part, of such individual's sexual orientation or gender identity.

4. Advertising. It is an unlawful educational practice for an educational institution or any person employed by an educational institution to make, print, publish, advertise or disseminate in any way any notice, statement or advertisement with respect to that

educational institution which states that such institution engages in, or will engage in, an unlawful educational practices.

- B. Except as specifically amended in subsection A above, section 9.20.060 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 19.

Section 9.20.110 of the Sacramento City Code is amended as follows:

9.20.110 Limitation on action.

Judicial actions under this chapter must be filed within one year and six months of the time which plaintiff knew or should have known of:

A. The defendant's decision or action which plaintiff alleges is based on plaintiff's sexual orientation or gender identity; or

B. The defendant's act of retaliation against plaintiff in violation of ~~Section 9.20.070 of this chapter of this chapter.~~

SECTION 20.

Section 9.28.010 of the Sacramento City Code is amended as follows:

9.28.010 Findings and purpose.

After public hearing and receipt of testimony, the city council finds and declares:

That a significant barrier to the advancement of women and minorities in the business and professional life of the city exists by virtue of the discriminatory practices of certain clubs or organizations which are not distinctly private and where business is frequently conducted.

That while such clubs or organizations may avowedly be formed for social or civic purposes, the extent to which many of the activities therein have had a prejudicial impact on the business, professional and employment opportunities of women and minorities cannot be ignored or minimized.

That business activity most frequently occurs in clubs or organizations having more than ~~two hundred two hundred~~ (200) members ~~which and~~ provide regular meal services, which facilitates conducting such business.

That the dues and expenses of members at such clubs or organizations are often paid by their employers because the employees' activities at said clubs or organizations serve to develop and enhance the employer's business.

That such clubs or organizations also rent their facilities for use as conference rooms for business meetings attended by nonmembers.

That the city has a compelling interest in eradicating discrimination based on sex, race, color, religion, ancestry, national origin, handicap, ~~or~~ sexual orientation, or gender identity in order to assure all of its citizens a fair and equal opportunity to participate in the business and professional life of the city. Conduct and practices which exclude

persons from entry or consideration for membership in or the full advantages and privileges of such membership on these bases are discriminatory and unacceptable, are injurious to the body politic and to the business community in the city. Accordingly, the city's interest in eliminating such practices in clubs or organizations covered by this chapter outweighs the interest of their members in private association.

SECTION 21.

A. Subsection A of section 9.28.030 of the Sacramento City Code related to prohibition against discrimination is amended as follows:

A. It is unlawful for a club which is not distinctly private to deny to any person entry to facilities at, membership in, or the full enjoyment of said club or organization on the basis of sex, race, color, religion, ancestry, national origin, handicap, sexual orientation, or gender identity.

B. Except as specifically amended in subsection A above, Section 9.28.030 of the Sacramento City Code remains unchanged and in full force and effect.

ORDINANCE NO. _____

Adopted by the Sacramento City Council

[DATE]

AN ORDINANCE AMENDING SECTION 2.120.020 AND ADDING SECTION 2.120.110 TO THE SACRAMENTO CITY CODE, RELATED TO THE CITY'S DOMESTIC PARTNERSHIP REGISTRY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Legislative Findings and Intent.

1. Sacramento's proud heritage of diversity results from its longstanding commitment to ensuring equal opportunities and equal treatment for all residents. In 1992, as part of that commitment, Sacramento enacted a domestic partnership law that extended certain rights and benefits to committed gay and lesbian couples residing in the City. This law was then at the vanguard, providing protections to gays and lesbians nearly a decade before the State's domestic partnership law went into effect in 1999, and more than two decades before gays and lesbians were afforded the right to marry under State law.

2. Given recent and significant changes in State law recognizing and protecting gay and lesbian couples, including full marriage rights, and given that domestic partnerships have been available at the State level for some time, the City recognizes that its domestic partnership law, while at one time both progressive and necessary, is now largely duplicative of rights and protections available under State law. Under most circumstances, the City's domestic partnership law is similar to, and less comprehensive than, the rights and benefits available under State law.

3. This legislation closes the City domestic partnership registry and provides a 2 year sunset provision.

SECTION 2.

A. Section 2.120.020 of the Sacramento City Code is amended to add subsection E as follows:

E. No person may establish a city domestic partnership after February 3, 2014.

B. Except as specifically amended in subsection A above, section 2.120.020 of the Sacramento City Code remains unchanged and in full force and effect.

SECTION 3.

Section 2.120.110 is added to the Sacramento City Code as follows:

2.120.110 Sunset provision.

This chapter shall remain in effect until January 1, 2016, and on that date this chapter is repealed.

ORDINANCE NO. _____

Adopted by the Sacramento City Council

[DATE]

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