

ORDINANCE NO. 1261
Discrimination Prohibited

AN ORDINANCE OF THE CITY OF SANDPOINT, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, ADDING A NEW SECTION TO SANDPOINT CITY CODE TITLE 5, CHAPTER 2-10, TO PROVIDE FOR THE CREATION OF THE CITY OF SANDPOINT HUMAN RELATIONS REVIEW BOARD, AND TO PROHIBIT DISCRIMINATORY ACTS IN HOUSING, EMPLOYMENT AND PUBLIC ACCOMMODATIONS BASED UPON SEXUAL ORIENTATION, GENDER IDENTITY/EXPRESSION; PROVIDING THAT A VIOLATION OF THIS SECTION SHALL BE A MISDEMEANOR WITH PENALTIES PURSUANT TO IDAHO CODE SECTION 18-113; PROVIDING EXEMPTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, it is the policy and intent of the City of Sandpoint that no person be denied equal protection of the laws; nor shall any person be discriminated against because of their sexual orientation, gender identity/expression; and

WHEREAS, nothing contained herein should be construed as supporting or advocating any particular doctrine, position, point of view, or religious view. To the contrary, it is the intention of this ordinance that all persons are treated fairly and equally in the City of Sandpoint.

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Sandpoint:

Section 1. The General Law of the City of Sandpoint shall be amended by the addition of a new section, Section 10, under Chapter 2 of Title 5, Discrimination Prohibited, to provide as follows:

Chapter 2, Section 10

Discrimination Prohibited

2-10-1: PURPOSE AND DECLARATION OF POLICY

- A. In order to ensure that all persons, regardless of sexual orientation, gender identity/expression enjoy the full benefits of citizenship and are afforded equal

opportunities for employment, housing, commercial property, and the use of public accommodations, it is necessary that appropriate legislation be enacted

- B. It is hereby declared to be the public policy of the City of Sandpoint to foster the employment of all individuals in accordance with their abilities.
- C. It is the intention of this Chapter that all persons be treated fairly and equally, and it is the express intent of this Chapter to guarantee fair and equal treatment under the law to all people of the City of Sandpoint.
- D. This Chapter shall be deemed an exercise of the police power of the City of Sandpoint for the protection of the public welfare, prosperity, health and peace of the City of Sandpoint, its residents and the community.
- E. The prohibitions against discriminatory acts as provided for in this ordinance are intended to supplement state and federal civil rights law prohibiting discrimination in the areas of employment, public accommodations, and housing. For complaints alleging discrimination on a basis proscribed under state or federal law (e.g. race, color, religious creed, ancestry, age, sex, national origin, and/or disability) the Complainant is advised of their right to file their complaint with the Idaho Commission on Human Rights and/or Federal Equal Employment Opportunity Commission.
- F. No power or duty granted hereunder to the Human Relations Review Board is intended to exceed nor shall it be construed as exceeding those powers and duties granted to the Idaho Commission on Human Rights, Idaho Code 67-5901 et sec.

2-10-2: DEFINITIONS

- A. ANY PERSON – The phrase “any person” shall be construed to include the City and any owner/employer, lessee, proprietor, manager, agent, employee, whether one or more natural persons, partnerships, associations, organizations, corporations, companies, cooperatives, (including its officers and/or board of directors), boards and commissions, engaged in or exercising control over the operation of any business, place of public resort, accommodation, assemblage or amusement in the City of Sandpoint.
- B. DENY – The word “deny” is hereby defined to include any act which directly or indirectly, by any person or his agent or employee, that results or is intended or calculated to result in whole or in part in any discrimination, distinction, restriction, or unequal treatment. It also includes, but is not limited to, the requiring of a person to pay a

larger sum than the uniform rates charged other persons, or the refusing or withholding from persons the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement except for conditions and limitations established by law and applicable alike to all persons, regardless of sexual orientation, gender identity/expression.

- C. FULL ENJOYMENT OF – The phrase “full enjoymentof” shall be construed to include, but not be limited to, the right to use or purchase , real property, any service, commodity or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage or amusement, without acts directly or indirectly causing persons of any particular sexual orientation, gender identity/expression to be treated as not welcome or accepted.
- D. GENDER EXPRESSION/IDENTITY – A gender-related identity, appearance, expression or behavior of an individual regardless of a person’s assigned sex at birth
- E. HUMAN RELATIONS REVIEW BOARD – A quasi-judicial group consisting of three (3) or more persons appointed by the Mayor to process complaints and determine if prohibiteddiscriminatory acts have occurred in the City of Sandpoint.
- F. PLACE OF PUBLIC RESORT, ACCOMMODATION, ASEMBLAGE OR AMUSEMENT—The phrase "place of public resort, accommodation, assemblage or amusement" is hereby defined to include, but not to be limited to any public place where admission, service, occupancy or use of any property or facilities, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, or for the sale of goods and merchandise or for the rendering of personal services.
- G. SEXUAL ORIENTATION – Actual or perceived homosexuality, heterosexuality and/or bisexuality.

2-10-3: PROHIBITED DISCRIMINATORY ACTS

The following acts are prohibited and constitute a misdemeanor punishable in accordance with I.C. 18-113.

- A. Any person who denies to any other person because of sexual orientation, gender identity/expressionthe right to work: (a) by refusing to hire, (b) by discharging, (c) by

barring from employment, or (d) by discriminating against such person in compensation or in other terms or conditions of employment; or who denies to any other person because of sexual orientation, gender identity/expression, the full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage, or amusement.

- B. Retaliation against any individual because such individual has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing under this Chapter.
- C. Aiding, abetting, inciting, compelling or coercing the doing of any act declared by this Chapter to be an unlawful practice, or obstructing or preventing any person from complying with the provisions of this Chapter.

2-10-4: EXCEPTIONS

Notwithstanding any other provision herein, nothing in this Chapter is intended to alter or abridge other rights, protection, or privileges secured under state or federal law. This ordinance shall be construed and applied in a manner consistent with First Amendment jurisprudence regarding the freedom of speech and exercise of religion.

2-10-5: ESTABLISHMENT OF HUMAN RELATIONS REVIEW BOARD

- A. Pursuant to Idaho Code Section 50-210, there is hereby established a Human Relations Review Board in and for the City of Sandpoint (hereinafter referred to as the "Sandpoint Human Relations Review Board" or the "Review Board").
- B. The Review Board shall consist of a quorum of three (3) or more members. All members of the Review Board shall be appointed by the Mayor of the City of Sandpoint and confirmed by the City Council. Members shall be residents of City. No member of the Review Board shall hold any office in any political party.
- C. Members of the Review Board shall serve without salary but may be paid expenses incurred in the performance of their duties, as approved by City Council.
- D. One of the Review Board's members shall be appointed by the members thereof as Chairperson. The Chairperson will be responsible for setting Review Board meetings, coordinating with the Mayor and City Clerk regarding received complaints and answers, and generally ensuring that the duties of the Review Board are fulfilled.

- E. The Review Board shall have jurisdiction over Prohibited Discriminatory Acts committed within the City of Sandpoint as it relates to sexual orientation, gender identity/expression.
- F. The Review Board shall be empowered to promulgate such additional procedures as it determines necessary to implement the intent of this Chapter.
- G. The Sandpoint City Council hereby grants to the Review Board, with respect to Prohibited Discriminatory Acts as defined herein, all of the powers necessary to the execution of its duties as set forth below, provided that those powers shall not exceed those exercised by the Idaho Commission on Human Rights now or as may be granted in the future by the Idaho legislature.

2-10-6: PROCEDURES

A. Filing a complaint.

1. Person(s) claiming to be aggrieved by a Prohibited Discriminatory Act may make, sign, and file a verified complaint alleging violations of this Chapter, which shall include the following information:
 - (a) The name and address of the aggrieved person(s);
 - (b) The name and address of the person(s) alleged to have committed the prohibited practice;
 - (c) A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory act;
 - (d) If applicable, the address and a description of any property which is involved; and
 - (e) Such other information as may be required by the Review Board.
2. Complaints may be filed in person or by mail at the City Clerk's office. All complaints must be received by the City Clerk's office within 90 days of the alleged discrimination, or the complaint will not be considered timely.
3. The City Clerk shall convey each original complaint received by the City to the Chairperson of the Sandpoint Human Relations Review Board within 10 days of the receipt of such complaint.

B. Notification and Answer.

1. Within 30 days of its receipt of a complaint, the Sandpoint Human Relations Review Board shall determine if it has jurisdiction hereunder to hear the complaint. If the Review Board determines that it does not have such jurisdiction, it shall dismiss the complaint and notify the aggrieved party. If the Review Board determines it has jurisdiction to hear the complaint, it shall proceed as follows:
 - (a) Send a copy of the complaint to the person(s) charged with a Prohibited Discriminatory Act (the "Respondent"); and
 - (b) Send a notice to the person(s) aggrieved (the "Complainant"), informing them that the complaint has been received.
2. The Respondent must file, with the City Clerk, a written verified answer to the complaint within 30 days of Respondent's receipt of the complaint from the City. The answer shall be conveyed by the City Clerk to the Chairperson of the Review Board within 10 days. The Review Board shall within 5 days send a copy of the answer to the Complainant.

2-10-7: MEDIATION

- A. After the answer has been received, the Review Board shall, within 15 days, invite the parties to voluntarily participate in mediation of their dispute. The parties must respond within 15 days of being invited to mediate. The parties must accept or reject the invitation to mediation.
- B. If accepted by parties, mediation shall be conducted in accordance with procedures promulgated by the Review Board. Parties may jointly select a mediator. If parties cannot agree, a mediator shall be selected pursuant to procedures promulgated by the Review Board. The Parties shall be jointly responsible for all financial costs and expenses associated with mediation.
- C. The parties shall notify the Review Board as to whether the mediation successfully resolved the complaint. Mediation proceedings shall otherwise be confidential. Neither the results thereof, nor any record made in connection therewith, shall be made public unless agreed to in writing by both parties.
- D. If the mediation has successfully resolved the complaint, the Review Board shall promptly notify the parties that it has dismissed the complaint.

2-10-8: INVESTIGATION AND DETERMINATION

If mediation is not desired or was not successful in resolving the complaint, the Review Board shall not dismiss the complaint but shall instead undertake the following procedures:

- A. Investigation. The Review Board shall, in a timely fashion, investigate the allegations of a Prohibited Discriminatory Act set forth in the complaint in coordination with a local law enforcement agency. The City may, in the conduct of such investigation and upon request of the investigator, issue subpoenas to any person charged with a Prohibited Discriminatory Act, commanding such person to furnish information, records or other documents, as necessary to assist in the Review Board's investigation.
- B. Determination
 1. Finding of No Cause. If it is determined after the Review Board's investigation that there is no basis for the allegations of the complaint, the Review Board shall issue and serve upon the parties written notice of such determination and dismissal of the complaint.
 2. Finding of Cause. If it is determined after the Review Board's investigation that the Respondent has engaged in or is engaging in any unlawful discriminatory act, as defined in this Chapter, the Review Board shall state its findings of fact, and will refer the matter to the City Attorney to pursue civil, equitable or criminal remedies.

2-10-9: PENALTY

A violation of this ordinance shall constitute a misdemeanor, punishable as provided in Idaho Code Section 18-113.

2-10-10: PRIVATE RIGHT OF ACTION

There is no private right of action that is created by this section or money damages available to any person based on this section.

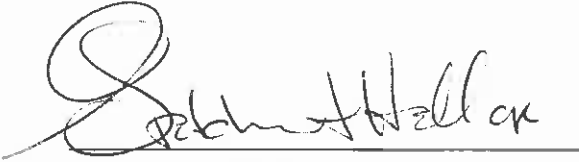
Section 2: Nothing in this Ordinance shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, and permit issued, or any cause or causes of action existing under the General Ordinances of the City of Sandpoint or the State of Idaho.

Section 3: The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of

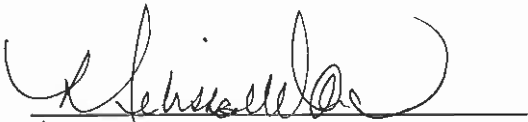
competent jurisdiction, such decision of this Court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance.

Section 4: This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED BY THE CITY COUNCIL as an ordinance of the City of Sandpoint on this 21st day of December, 2011.



Gretchen A. Hellar, Mayor
City of Sandpoint



for Maree Peck, City Clerk