

ORDINANCE NO. O2023.58

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 22, OFFENSES—MISCELLANEOUS, ARTICLE V, TEMPE CITY CODE, RELATING TO FAIR HOUSING, BY AMENDING SECTIONS 22-91, 22-91, AND 22-93, AND AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE VIII, TEMPE CITY CODE, RELATING TO HUMAN RELATIONS, BY AMENDING SECTIONS 2-601, 2-603, AND 2-605.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Chapter 22, Article V of the Tempe City Code is hereby amended by amending Section 22-91 as follows:

Sec. 22-91. - Declaration of policy.

- (a) It is hereby declared that the civil rights of the people of the City shall be free from discrimination, and no person(s) shall be denied or be excluded from participation in the sale, leasing, rental, or other disposition of housing or related facilities (including land) because of race, color, religion, gender, gender identity, sexual orientation, national origin, familial status (includes children under the age of eighteen (18) living with parents or legal custodians; pregnant women and people securing custody of children under eighteen (18)), age, disability, ~~or~~ united states military veteran status, OR SOURCE OF INCOME. This policy also prohibits discrimination by banks, loan associations, insurance companies and associations, whose business consists of providing financial assistance to persons for the purpose of purchasing, construction, improving, repairing, or maintaining a dwelling. The only exemptions to this requirement shall be:
 - (1) A dwelling containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner occupies one (1) such living quarters as his/her residence.
 - (2) Religious organizations, expressive associations and private clubs, may limit sales, rental, or occupancy of noncommercial units to their members.
- (b) Additionally, no otherwise qualified person(s) in the City shall, on the basis of age or disability, be excluded from participation, or be subjected to discrimination under any program or activity receiving federal financial assistance.

(Ord. No. 87.10, 4-23-87; Ord. No. 95.12, 3-30-95; Ord. No. O2014.20, 4-10-14)

Cross reference— See Human Relations, Ch. 2., Article VIII.

Section 2. That Chapter 22, Article V of the Tempe City Code is hereby amended by amending Section 22-92 as follows:

Sec. 22-92. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Discriminate or *discrimination* means to exclude individuals from an opportunity or participation in any activity because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status; and occurs whenever similarly situated individuals of a different group are accorded different and unequal treatment in the context of a similar situation.

Housing means any building, structure or facility which is occupied as, or designed, or intended for occupancy as a residence, home or sleeping place; and any vacant land which is available for sale or lease for the construction of any building, structure or facility.

Owner means to include any manager, agent, representative, or other person having the authority to sell, rent or lease housing.

Real estate broker or *real estate salesperson* means a person licensed or not, who, for a fee or other considerations, receives or collects the same, lists, sells, purchases, rents or leases any housing, or negotiates such activities, and who also may be responsible for arranging a loan or securing a mortgage; or an individual acting in the behalf of any other person in these matters.

SOURCE OF INCOME MEANS ANY LAWFUL SOURCE OF INCOME OR SUPPORT THAT PROVIDES FUNDS TO OR ON BEHALF OF A RENTER OR BUYER OF HOUSING AND IS VERIFIABLE AS TO AMOUNT, REGULARITY, RECEIPT, AND LENGTH OF TIME RECEIVED OR TO BE RECEIVED, INCLUDING, BUT NOT LIMITED TO, WAGES, SALARIES, GRANT, GIFT, LOAN, INHERITANCE, PENSION, ANNUITY, CHILD SUPPORT, SPOUSAL SUPPORT, FOSTER CARE SUBSIDIES, RENTAL ASSISTANCE, SECURITY DEPOSIT OR DOWN PAYMENT ASSISTANCE, INCOME DERIVED FROM SOCIAL SECURITY OR DISABILITY INSURANCE, VETERANS' BENEFITS, SECTION 8 HOUSING CHOICE VOUCHERS, OR ANY OTHER FORM OF GOVERNMENTAL ASSISTANCE, BENEFIT, OR SUBSIDY. SOURCE OF INCOME INCLUDES ANY REQUIREMENT OF ANY SUCH PROGRAM, ASSISTANCE, BENEFIT, OR SUBSIDY.

(Ord. No. 87.10, 4-23-87; Ord. No. 95.12, 3-30-95; Ord. No. O2014.20, 4-10-14)

Section 3. That Chapter 22, Article V of the Tempe City Code is hereby amended by amending Section 22-93 as follows:

Sec. 22-93. - Prohibited actions.

It shall be unlawful for any person, including but not limited to owners, lessees, agents, real estate brokers, real estate salespersons, trustees, mortgagees, financial institutions, title companies, and insurance companies:

- (1) To discriminate against any person in the sale, lease, rental or any other condition involving housing; further to discriminate in the extension of loans, credit, insurance, or any other services related to the financing or transfer of interest of any dwelling.
- (2) To refuse to sell or rent after the making of a bona fide offer, because of race, color, religion, gender, gender identity, sexual orientation, national origin, familial status, disability, ~~or~~ United States military veteran status, OR SOURCE OF INCOME.
- (3) To discriminate in the terms, conditions, or privileges of sale or rental of a dwelling.
- (4) To print, publish, or advertise THE sale or rental of a dwelling which indicates preference, limitations, or discrimination, based on race, color, religion, sex, national origin, familial status, ~~or~~ handicap, OR SOURCE OF INCOME.
- (5) To represent to any person that a house is not available for inspection, sale, or rental, when such a house is, in fact, available because of race, color, religion, gender, gender identity, sexual orientation, national origin, familial status, disability, ~~or~~ United States military veteran status, OR SOURCE OF INCOME.
- (6) To induce, or attempt to induce, for profit, any person to sell or rent a house by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, gender, gender identity, sexual orientation, national origin, familial status, disability, ~~or~~ United States military veteran status, OR SOURCE OF INCOME.
- (7) To aid, abet, incite, or coerce, the doing of any of the acts prohibited under this chapter.

(Ord. No. 87.10, 4-23-87; Ord. No. 95.12, 3-30-95; Ord. No. O2014.20, 4-10-14)

Cross reference— See Human Relations, Ch. 2., Article VIII.

Section 4. That Chapter 2, Article VIII of the Tempe City Code is hereby amended by amending Section 2-600 as follows:

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Sec. 2-600. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult means a person who has attained eighteen (18) years of age.

State Law reference— Similar provisions, A.R.S., § 1-215(3).

Contractor means a person or firm in the business of selling or otherwise providing products, materials or services, that has gone through a competitive solicitation process with the City of Tempe, and been awarded a contract with the City of Tempe through a formal award by the City Council. This does not include a cooperative procurement conducted by, or on behalf of, more than one eligible public procurement unit.

Cross reference— Procurement, Ch. 26a.

Discrimination means to exclude individuals from an opportunity or participation in any activity because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, ~~or~~ United States military veteran status, OR SOURCE OF INCOME, and occurs whenever similarly situated individuals of a different group are accorded different and unequal treatment in the context of a similar situation.

Employee means an individual employed for pay to perform services for an employer covered by this article and whose activities are controlled and directed by the employer, for whom services are being performed.

Employer means a person doing business within the City who has one (1) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and any agent of such person. This definition excludes:

- (1) The United States or any department or agency thereof, a corporation wholly owned by the United States or any Indian tribe;
- (2) The State of Arizona or any department or agency thereof, except for any political subdivision of the State of Arizona, including any community college district or high school or elementary school district;
- (3) A bona fide membership club (other than a labor organization) that is exempt from taxation under the Internal Revenue Code of 1986 (as amended from time to time);
- (4) A religious organization; or

- (5) An expressive association whose employment of a person protected by this article would significantly burden the association's rights of expressive association.

State Law reference— Similar provisions, A.R.S., § 23-613.

Familial status means the state of having one (1) or more minor children under the age of eighteen (18) being domiciled with: a parent, guardian or another person having legal custody; the designee of such parent, guardian or another person having legal custody with written permission; or, a foster parent or other person with whom a minor child is placed by court order. This definition includes pregnant women and people securing custody of children under the age of eighteen (18) or disability.

Cross reference— Fair housing, Ch. 22, Art. V.

Gender identity means an individual's various attributes as they are understood to be masculine or feminine and shall be broadly interpreted to include pre and post operative gender individuals, as well as other persons who are or are perceived to be transgendered; as well as gender expression, including external characteristics and behaviors that are socially defined as either masculine or feminine.

Membership club or *bona fide membership club* means a private club not open to the public that is supported by membership fees, dues, and assessments, and qualifies for exemption by the Internal Revenue Service; and, that is not organized for the purpose of evading compliance with this article.

Place of public accommodation means facilities, establishments, accommodations, services, commodities, or use offered to or for use by the general public, including public places where food or beverages are offered for sale, public places operated for temporary lodging, use or accommodation of those seeking health or recreation and all establishments offering such goods or facilities, and entities soliciting patronage from the general public, except for religious organizations or expressive associations whose inclusion of a person protected by this article would significantly burden the association's rights of expressive association. This does not include any private club or any place which is in its nature distinctly private.

Protective hairstyles means braids, locks, twists, tight coils or rolls, bantu knots, afros and headwraps.

Race means any one of the groups that humans are often divided into based on physical traits as common among people of shared ancestry. These traits include but not limited to one's hair texture or type and protective hairstyles historically associated with an individual's race.

Sexual orientation means an enduring pattern of emotional, romantic, or sexual attractions to men, women, or both sexes as well as the genders that accompany them, including the perception or status of an individual's same-sex, opposite-sex, or bisexual orientation.

Social club means an organization composed of people who voluntarily meet on a regular basis for a mutual purpose other than for educational, religious, charitable, or financial pursuits. This includes any group that has members who meet for a social, literary, or political purpose. This definition does not include any club conducted for the purpose of evading this article.

Vendor means a person or firm in the business of selling or otherwise providing products, materials or services, that has gone through a competitive solicitation process with the City of Tempe, and been awarded a contract with the City of Tempe through a formal award by the City Council. This does not include a cooperative procurement conducted by, or on behalf of, more than one eligible public procurement unit.

Cross reference— Procurement, Ch. 26A.

(Ord. No. O2014.10, 2-27-14; Ord. No. O2016.25, § 1, 5-12-16; Ord. No. O2021.55, § 1, 11-9-21)

Section 5. That Chapter 2, Article VIII of the Tempe City Code is hereby amended by amending Section 2-601 as follows:

Sec. 2-601. - Policy.

It is declared to be the policy for the citizens of Tempe, Arizona, to be free from discrimination in public accommodations, employment, and housing, and contrary to public policy and unlawful to discriminate against any person on the basis of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, ~~or~~ United States military veteran status, OR SOURCE OF INCOME, in places of public accommodation, employment, and housing; and contrary to the policy of the City and unlawful for vendors and contractors doing business with the City to discriminate, as set forth in this article. Race is inclusive of an individual's protective hairstyle.

(Ord. No. O2014.10, 2-27-14; Ord. No. O2021.55, § 1, 11-9-21)

Section 6. That Chapter 2, Article VIII of the Tempe City Code is hereby amended by amending Section 2-603 as follows:

Sec. 2-603. - Unlawful practices.

The following shall constitute a violation of this article:

- (1) For any owner, operator, lessor, manager, agent or employer of any place of public accommodation to discriminate against any person, including to restrict or refuse access on the basis of race, color, gender, gender identity, sexual orientation,

religion, national origin, familial status, age, disability, ~~or~~ United States military veteran status, OR SOURCE OF INCOME;

- (2) For an employer, because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, to refuse to hire or employ or bar or discharge from employment any person, or to discriminate against such person in compensation, conditions, or privileges of employment;
- (3) For a labor organization, because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, to exclude, expel, limit or restrict from its membership any person, or to provide segregated membership or otherwise discriminate in any manner against any of its members, applicants or employers;
- (4) For any owner or lessor to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities therewith, because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, ~~or~~ United States military veteran status, OR SOURCE OF INCOME;
- (5) For a city vendor or city contractor, because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, to refuse to hire or employ or bar or discharge from employment any person, or to discriminate against such person in compensation, conditions, or privileges of employment. City vendors and contractors of fifteen (15) employees or more, shall provide a copy of its antidiscrimination policy to the city's procurement officer, to confirm compliance with this article. Employers having fourteen (14) or less employees may attest in writing to compliance with this article; or
- (6) For any person to coerce, intimidate, threaten, or interfere with any person in the exercise and enjoyment of, or on account of any aid or encouragement of any right granted or protected under this article.

(Ord. No. O2014.10, 2-27-14; Ord. No. O2016.25, § 1, 5-12-16)

Section 7. That Chapter 2, Article VIII of the Tempe City Code is hereby amended by amending Section 2-605 as follows:

Sec. 2-605. - Fair housing.

- (a) It shall constitute a violation of this article to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of residential real

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property to any person because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, ~~or~~ United States military veteran status, OR SOURCE OF INCOME, within the legal jurisdiction of the City.

- (b) It shall constitute a violation of this article to refuse any provision of services or facilities, privileges or conditions of the sale or rental of residential real property to any person because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, ~~or~~ United States military veteran status, OR SOURCE OF INCOME, within the legal jurisdiction of the City.
- (c) Nothing in this article shall exclude or deny housing designated for senior living or for the disabled, or as otherwise designated or directed by the United States Department of Housing and Urban Development or the State of Arizona.

(Ord. No. O2014.10, 2-27-14)

Section 8. Pursuant to the Tempe City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption or at any later date specified therein.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this 30th day of November, 2023.

Corey D. Woods, Mayor

ATTEST:

Kara A. DeArrastia, City Clerk

APPROVED AS TO FORM:

Sonia M. Blain, City Attorney

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