

ORIGINAL ORDINANCE NO. 1914

INTRODUCED BY: PEARCE

ENROLLED ORDINANCE NO.

AN ORDINANCE ESTABLISHING CHAPTER 9.32 OF THE MUNICIPAL CODE ENTITLED
ILLEGAL DISCRIMINATION.

WHEREAS, the Laramie City Council specifically finds as follow:

1. The City of Laramie ("City") is composed of and welcomes diverse individuals, groups, and communities;
2. The City values this diversity and needs to encourage and allow all residents and visitors to contribute to the commercial life and activities of Laramie, and to the cultural and social life of the City;
3. Discrimination and discriminatory practices based on sexual orientation or gender identity ("Discrimination") inhibit and restrict the economic growth and opportunities of Laramie and its citizens and its visitors, and the general cultural, social and commercial activities and life of the City;
4. Prohibition and regulation of Discrimination will attract new residents and businesses to the City, will encourage visitors and tourists to the City, and is necessary to raise and maximize revenue for the City, in order that the City may provide more and better services and amenities to insure the growth and acceptable quality of life of the City;
5. Discrimination disturbs or jeopardizes the public health, safety, peace and morality of the City;
6. Discrimination must be prohibited and regulated in order to protect the health, safety and welfare of the City.
7. The City must exercise its powers to the fullest extent allowed by the statutes of the State of Wyoming to prohibit and regulate Discrimination; and
8. The City must exercise its power to the fullest extent allowed by the Constitution of the State of Wyoming to prohibit and regulate Discrimination.

NOW, THEREFORE, the Laramie City Council enacts the following ordinance:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LARAMIE, WYOMING that the following sections in Chapter 9.32 are created to read as follows:

CHAPTER 9.32

ILLEGAL DISCRIMINATION

Section 9.32.010 Purpose and Intent.

A. Consistent with the findings of the City Council, it is the intent of the City of Laramie that no person shall be discriminated against based upon his or her actual or perceived sexual orientation or gender identity or expression, as more specifically set out in the Chapter.

B. Consistent with the findings of the City Council, and incorporating those findings, this Chapter is enacted to exercise, to the fullest extent allowed by Wyoming statutes and the Wyoming Constitution, the powers of the City of Laramie to prohibit such discrimination in order to, without limitation, encourage the economic growth of the City, raise revenue for the City for the benefit of its residents, prevent activities that disturb or jeopardize the public health, safety, peace or morality of the City, provide for the health, safety and welfare of the City, and to generally encourage the growth and economic expansion of the City, and the ability of its residents to fully participate in the cultural, social and economic life of the City.

9.32.020 Definitions.

As used in this chapter, unless the context requires otherwise, the following definitions apply:

A. **GENDER IDENTITY OR EXPRESSION:** An actual or perceived gender related identity, expression, or behavior, regardless of the individual's sex at birth.

B. **HOUSING FACILITY** A building or portion of a building, whether constructed or to be constructed, that is or will be used as the home, domicile, residence, or sleeping quarters of its occupants.

C. **PERSON:** One or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated employees' associations, employers, employment agencies, organizations, or labor organizations.

D. **PUBLIC ACCOMMODATION:** A place, including the city and its agencies, however organized, offering services, facilities or goods to or soliciting patronage from members of the general public. This includes places of lodging, establishments serving food or drink, auditoriums and other places of public gathering, shopping facilities, medical and other professional service establishments, public transportation facilities, libraries and other professional service establishments, places of entertainment and recreation, daycare centers and other social service establishments and all places of education.

Public accommodation does not include an institution, club, or place of accommodation that proves that it is, by its nature, distinctly private. An institution, club, or place of accommodation may not be considered by its nature distinctly private if it has more than one hundred (100) members, provides regular meal service, and regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages, directly or indirectly, from or on behalf of nonmembers, for the furtherance of trade or business. For the purposes of this definition, any lodge of a recognized national fraternal organization is considered by its nature distinctly private.

E. **SEXUAL ORIENTATION:** Actual or perceived heterosexuality, bisexuality, or homosexuality.

F. **EMPLOYER:** Any person or entity doing business within the City of Laramie who has one or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person or entity.

Section 9.32.030 Employment Discrimination Prohibited.

- A. It is a discriminatory or unfair employment practice and shall be unlawful:
- i. For an employer to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation or the terms, conditions or privileges of employment against a qualified person on the basis of sexual orientation or gender identity or expression;
 - ii. For a person, an employer, an employment agency, a labor organization, or its employees or members, to discriminate in matters of employment or membership against any person, otherwise qualified, on the basis of sexual orientation or gender identity or expression;
 - iii. For an employer to reduce the wage of any employee to comply with this chapter.
- B. Employer shall include the city and its agencies.

Section 9.32.040 Places of Public Accommodation; Discrimination Prohibited.

All persons of good department are entitled to the full and equal enjoyment of all public accommodations, including accommodations, advantages, facilities and privileges of all places or agencies which are public in nature, or which invite the patronage of the public, including city facilities and services, without any distinction, discrimination or restriction on account of sexual orientation or gender identity or expression.

Section 9.32.050 Housing; Illegal Discrimination Prohibited.

It shall be unlawful for any person, owner, manager, employee, or any entity whose business includes engaging in any residential real estate related transactions to discriminate on the account of sexual orientation or gender identity or expression in the sale, lease or rental of any housing facility, or to otherwise discriminate in the terms, conditions, maintenance, improvement, or repair of any housing facility. The rental of sleeping rooms in a private residence designed as a single dwelling unit in which the owner also resides is excluded from this section provided that the owner rents no more than three (3) sleeping rooms within the residence.

Section 9.32.060 Retaliation.

No person shall coerce, threaten, discharge, expel, blacklist, or otherwise retaliate against another person for opposing any practices prohibited by this chapter, or making a complaint, or assisting in an investigation or proceeding regarding an alleged violation of this chapter; nor shall any person require, request, conspire with, assist, or coerce another person to coerce, threaten, discharge, expel, blacklist or to retaliate against a person for making a complaint or assisting in an investigation or proceeding.

Section 9.32.070

This ordinance fully acknowledges all rights guaranteed by the First Amendment of the United States Constitution.

Section 9.32.080 Procedure for Filing Complaints.

A. Any person who claims to have been injured by an unlawful employment practice, an unlawful housing practice or an unlawful public accommodation practice subject to the City's jurisdiction under this chapter may file a complaint with the City Manager or his/her designee. A complaint may also be filed by the City Manager and his/her designee if the City Manager or his/her designee has reasonable cause to believe that a person has committed an unlawful employment practice, an unlawful housing practice or an unlawful public accommodation practice. A complaint must be filed within ninety (90) calendar days after an alleged violation under this chapter has occurred.

B. A complaint must be in writing, made under oath or affirmation, and contain the following information:

- i. The Complainant's name, address, telephone number and signature;
- ii. The date the alleged unlawful employment practice, unlawful housing practice or an unlawful public accommodation practice occurred;
- iii. A statement of the facts upon which the allegation of an unlawful employment practice, unlawful housing practice or an unlawful public accommodation practice occurred;
- iv. The name of the alleged violator, or facts sufficient to identify such person ("Respondent"); and
- v. Whether a complaint concerning this same matter has been filed with another agency and the disposition of said complaint.

C. Upon receipt of the complaint, the City Manager or his/her designee shall assign such complaint to a person or entity (the "Investigator") with the requisite knowledge, skills and expertise to further investigate the complaint as herein described. Such assignment will be made at the sole discretion of the City Manager or his/her designee. In the event said complaint shall involve persons employed by the City as the Respondent, the Investigator shall be an independent third party. In addition, internal disciplinary policies may apply to these instances.

D. Promptly upon receipt of the complaint from the City Manager or his/her designee, the Investigator shall:

- i. Provide the Respondent named in the complaint written notice that a complaint alleging the commission of an unlawful employment practice, unlawful housing practice or unlawful public accommodation practice occurred has been filed against the Respondent;
- ii. Furnish a copy of the complaint to the Respondent; and
- iii. Advise the Respondent of the Respondent's procedural rights and obligations, including the right to file a written, signed, and verified informal answer to the complaint within fifteen (15) calendar days after service of notice of the complaint.

E. Not later than fifteen (15) calendar days after service of the notice and copy of the complaint, a Respondent may file an answer to the complaint. The answer must be in writing, made under oath or affirmation, and contain the following information:

- i. The Respondent's name, address, telephone number, and signature of the Respondent or the Respondent's attorney, if any; and
- ii. A concise statement of facts in response to the allegations in the complaint, including facts of any defense or exemption.

Section 9.32.090 Investigation.

A. Upon receipt of the complaint, the Investigator shall commence an investigation to determine the facts behind the complaint and whether there is reasonable cause to believe the Respondent committed an unlawful employment practice, unlawful housing practice or unlawful public accommodation practice except that no investigation may commence if, after reviewing the allegations of the complaint, the Investigator determines that the complaint does not come within the scope of this chapter. Upon determining that a particular complaint does not come within the scope of this chapter, the Investigator shall dismiss the complaint, notify the Complainant and Respondent and take no further action.

B. In connection with any investigation of a complaint filed under this chapter, the Investigator shall seek the voluntary cooperation of any person to:

- i. Obtain access to premises, records, documents, individuals, and any other possible source of information;
- ii. Examine, record and copy necessary materials; and
- iii. Take and record testimony or statements of any person reasonably necessary for the furtherance of the investigation.

C. The Investigator may in coordination with the City Attorney issue subpoenas to compel the attendance of witnesses or the production of relevant materials or documents.

D. The Investigator may dismiss a complaint during the investigation and prior to referral to the City Attorney if the Investigator determines that:

- i. The complaint was not filed within the required time period;
- ii. The location of the alleged unlawful employment practice or unlawful housing practice is not within the City's jurisdiction;
- iii. The alleged unlawful unemployment practice or alleged unlawful housing practice is not a violation of this chapter;
- iv. The Complainant refuses to cooperate with the Investigator in the investigation of the complaint or enforcement of an executed conciliation agreement;
- v. The Complainant cannot be located after the Investigator has performed a reasonable search; or
- vi. A conciliation agreement has been executed by the Complainant and Respondent.

Section 9.32.100 Conciliation.

A. During or after the investigation the Investigator shall, if the Respondent appears to have committed an unlawful employment practice, unlawful housing practice or unlawful public accommodation practice, attempt to conciliate the complaint. In conciliating a complaint, the Investigator shall try to achieve a just resolution and obtain assurances that the Respondent will satisfactorily remedy any violation of the Complainant's rights and take action to ensure the elimination of either present and future unlawful employment practices, unlawful housing practices or unlawful public accommodation practices. A conciliation agreement may include: sensitivity training for Respondent and/or Respondent's employees; the Respondent's agreement to adopt and pursue a policy of non-discrimination in employment practices, housing practices or public accommodation practices; and the Respondent's agreement to not engage in discriminatory practices in the future.

B. A conciliation agreement executed under this section must be in writing in a form approved by the City Attorney and must be signed and verified by the Respondent and the Complainant, subject to approval of the Investigator who shall indicate approval by signing the agreement.

C. If a Respondent voluntarily enters into a conciliation agreement, the Investigator shall immediately dismiss the complaint.

Section 9.32.110 Disposition of a Complaint.

A. If, upon completion of an investigation of a complaint, the Investigator determines that an unlawful employment practice, unlawful housing practice or unlawful public accommodation practice has occurred and is unable to secure an acceptable conciliation agreement from the Respondent, then the Investigator shall refer the case to the City Attorney, who shall determine how best to pursue further action, if any, on the complaint.

B. If the City Attorney determines that cause exists to find that an unlawful employment practice, unlawful housing practice or unlawful public accommodation practice occurred and the facts are sufficient to warrant the initiation of an action in municipal court, then the City Attorney shall provide written notification to the Respondent and Complainant that an action to enforce this chapter may be initiated in municipal court. If the City Attorney determines that there is no cause that unlawful employments practice, unlawful housing practice or unlawful public accommodation practice occurred or that the facts are insufficient to warrant the initiation of an action in municipal court, the City Attorney shall provide written notification to the Respondent and Complainant and shall then dismiss the complaint.

Section 9.32.120 Violation; Penalties.

Any violation of this chapter shall be an offense punishable by a fine of up to \$750.00 or a jail sentence of up to 6 months or both.

Section 9.32.130 Severability.

If any section, subsection, sentence, clause, phrase, or word of this chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this chapter should be declared invalid or unconstitutional, then the remaining ordinance provisions will remain in full force and effect.

Effective Date.

This ordinance shall become effective after passage, approval and publication.

Passed and approved this _____ day of _____, 2015.

David A. Paulekas, Mayor and President
of the City Council

Attest: _____
Sue Morris-Jones, MMC
City Clerk

First Reading: April 7, 2015

Second Reading: April 20, 2015

Third Reading and Final Action: May 13, 2015