

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING SECTIONS TO BE NUMBERED 7-1801 through 7-1807; PROVIDING PROTECTION FOR BILLINGS' DIVERSE POPULATION

Section 1. That Chapter 7, Businesses and Business Regulations, of the Billings, Montana City Code is hereby amended by adding a new Article 7-1800, adding sections to be numbered 7-1801 through 7-1807:

Article 7-1800

ILLEGAL DISCRIMINATION

7-1801: INTENT AND PURPOSE:

WHEREAS, the City has a compelling governmental interest in eliminating discrimination within the City and assuring all of its citizens to publicly available goods and services; and

WHEREAS, Therefore, the City deems it necessary to adopt local regulations adapted to the needs of its citizens.

WHEREAS, Nothing in this title is intended, however, to conflict with state and federal laws, or to alter or abridge other rights, protections, or privileges secured by state or federal law, including state and federal constitutional protections of freedom of speech and exercise of religion.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

7-1802: DEFINITIONS: As used in this Article, unless the context requires otherwise, the following definitions apply:

Discrimination: "Discrimination", "discriminate" or "discriminatory" means any act, policy, or practice that has the effect of unfavorably subjecting any person to different or separate treatment on the basis of their actual or perceived race, color, national origin, ancestry, religion, creed, sex, age, marital or familial status, physical or mental disability, sexual orientation, gender identity or expression, or because of their association with a person or group of people so identified. Discrimination based on physical or mental disability includes the failure to make reasonable accommodations that are required by an otherwise qualified person who has a physical or mental

disability. An accommodation that would require an undue hardship or that would endanger the health or safety of any person is not a reasonable accommodation.

Employee: An individual employed by an employer.

Employer: An employer of one or more persons or an agent of the employer. It does not include a fraternal, charitable, or religious association or corporation unless the association or corporation is organized either for private profit or to provide accommodations or services that are available on a non-membership basis.

Employment agency: A person undertaking to procure employees or opportunities to work.

Gender identity or expression: A gender-related identity, expression, or behavior, regardless of the individual's sex at birth.

Housing accommodation: 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. It does not include the rental of sleeping rooms in a private residence designed for single-family occupancy in which the owner also resides, provided that the owner rents no more than three sleeping rooms within the residence.

Labor organization: An organization or an agent of an organization organized for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances or terms or conditions of employment, or of other mutual aid and protection of employees.

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.

Political subdivision: federal, state or county government employers or public schools located within the boundaries of the City of Billings.

Public accommodation:

(a) A place that caters or offers its services, goods, or facilities to the general public, subject only to the conditions and limitations established by law and applicable to all persons. It includes, without limitation, a public inn, restaurant, eating house, hotel, roadhouse, place where food or alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, nightclub, trailer park resort, campground, barbering, cosmetology, electrology, esthetics, or manicuring salon or shop, bathroom, rest-house, theater, swimming pool, skating rink, golf course, café, ice cream parlor, transportation company, hospital, and all other public amusement and business establishments.

(b) "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 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.

(c) "Public accommodation" does not include a church or other religious association or corporation, except to the extent it maintains a place described in subsection (a), unless the service, goods or facilities are being provided for a purpose that is primarily religious in nature.

(d) "Public accommodation" does not include a private educational institution with a curriculum based in whole or in part upon religious faith.

(e) Nothing contained herein shall be construed as a requirement to construct additional facilities such as bathrooms, locker rooms, dressing rooms at any place of public accommodation as defined above.

Sexual orientation: Heterosexuality, bisexuality, or homosexuality

7-1803: EMPLOYMENT DISCRIMINATION PROHIBITED:

- A. No employer shall discriminate in the employment, failure to hire, refusal to hire, compensation, work classification, terms, conditions, or privileges of employment, including promotion, demotion, or termination of employment.
- B. No employer shall fail or refuse to refer for employment, or give negative information to a potential employer of an individual, in such a manner that would deprive or limit an individual's employment opportunities or that would otherwise adversely affect an individual's status as an applicant or prospective employee, for a discriminatory reason.
- C. No labor organization shall discriminate in limiting membership, conditions of membership, or termination of membership of any person in any labor union or apprenticeship program.
- D. No employment agency shall discriminate in the procurement or recruitment of any person for possible employment with an employer.

7-1804: DISCRIMINATION IN PUBLIC ACCOMODATIONS PROHIBITED: It shall be unlawful for a place of public accommodation to deny, directly or indirectly, any

person full and equal access or enjoyment of the goods, services, activities, facilities, privileges, advantages, and accommodations for a discriminatory reason.

7-1805: HOUSING DISCRIMINATION PROHIBITED: It is unlawful for any person, owner, manager, employee, or any entity whose business includes engaging in any residential real estate-related transactions to discriminate 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.

7-1806: RETALIATION PROHIBITED: No person shall coerce, threaten, discharge, expel, blacklist, or otherwise retaliate against another person for opposing any practices prohibited by this title, making a complaint, or assisting in an investigation or proceeding regarding an alleged violation of this title; nor shall any person require, request, conspire with, assist, or coerce another person to retaliate against a person for making a complaint or assisting in an investigation or proceeding.

7-1807: VIOLATION – CIVIL REMEDY – EXHAUSTION OF HUMAN RIGHTS BUREAU REMEDY

Any person claiming a violation of this chapter may seek civil remedies, injunctive relief, attorney fees or other equitable relief by petitioning the Billings Municipal Court or by seeking to have a municipal infraction issued.

(1) Prior to the filing of a petition or seeking to have a municipal infraction issued in the Billings Municipal Court under this Article, a person must have:

- (a). Timely filed a complaint with the Montana Human Rights Bureau within the time frames set forth in Section 49-2-501, MCA, alleging discrimination in employment, public accommodations or housing, or retaliation; and
- (b). Received a written disposition of the complaint from the Montana Human Rights Bureau, Montana Department of Labor & Industry Hearings Bureau, Montana Human Rights Commission, or any Montana court indicating that the acts of alleged discrimination or retaliation underlying the complaint do not fall within the scope of the Montana Human Rights Act.

(2) Any person claiming a violation of this Chapter must file a petition with the Billings Municipal Court within ninety (90) days of receipt of the written disposition referenced in Section 7-1807(1).

Section 2. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of these ordinances are declared to be severable.

BRCMonday, January 27, 2020

Section 3. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. Effective Date. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

APPROVED on first reading this ___ day of _____, 2020.

ADOPTED and APPROVED on second reading this ___ day of _____, 2020.

CITY OF BILLINGS

By _____
William Cole, Mayor

ATTEST:

By _____
_____, City Clerk

Wm

Wm