

ORDINANCE FOR PRESENTATION TO COUNCIL

SNOHOMISH COUNTY COUNCIL SNOHOMISH COUNTY, WASHINGTON

ORDINANCE NO. 08-_____

PROHIBITING CERTAIN FORMS OF DISCRIMINATION UNDER COUNTY CODE IN EMPLOYMENT, CREDIT TRANSACTIONS, PUBLIC ACCOMODATIONS, HOUSING, COUNTY PROGRAMS, AND CONTRACTING; ESTABLISHING THE SNOHOMISH COUNTY HUMAN RIGHTS COMMISSION WITH ENFORCEMENT POWER TO ENFORCE PROHIBITIONS; CREATING A NEW CHAPTER OF THE SNOHOMISH COUNTY CODE

WHEREAS, recognizing the need to combat the effects of bias and bigotry throughout Snohomish County, the Snohomish County Council desires to afford greater protection against certain forms of discrimination than is presently provided under state law, to be known as the “Snohomish County Human Rights Ordinance”; and

WHEREAS, Snohomish County desires to create a Commission on Human Rights to enforce the Snohomish County Human Rights Ordinance; and

WHEREAS, this Ordinance is designed to protect all people who live and work in the County from discrimination and sexual harassment in employment, public accommodations, housing, credit transactions, County services and County contracting.; and

WHEREAS, this Ordinance prohibits these forms of discrimination when they are based upon a persons race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, housing status, or gender identity; and

WHEREAS, the Commission on Human Rights will be authorized to enforce the Snohomish County Human Rights Ordinance by investigating, conciliating and conducting hearings on complaints of discrimination. In addition, the Commission will develop and conduct educational programs designed to prevent discrimination before it occurs and to promote better relations among the County’s diverse racial, ethnic, religious, cultural and social groups.

NOW THEREFORE BE IT ORDAINED:

Section 1. An new chapter is added to Title XX of the Snohomish County Code as follows:

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X.XX.010 PURPOSE

Prejudice, intolerance, bigotry, and discrimination occasioned thereby threaten the rights and proper privileges of the County's inhabitants and menace the institutions and foundation of a free and democratic society. Behavior which denies equal treatment to any individual because of his or her race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status undermines civil order, and economic prosperity, deprives individuals of the benefits of a free and open society. In order to create a free and open society, it is necessary to provide the protection set forth herein on a county-wide basis.

This Ordinance is adopted and codified to assure that individuals within the jurisdiction of Snohomish County shall be protected in the enjoyment of civil rights, and to promote mutual understanding and respect among all who live and work within this County. The provisions of this Ordinance shall be liberally construed for the accomplishment of its purpose. Nothing in this Ordinance shall be

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construed to limit rights granted under the laws of the State of Washington or the United States. This Ordinance shall be known and may be cited as the "Snohomish County Human Rights Ordinance."

X.XX.020 DEFINITIONS

Whenever used in this Ordinance, unless otherwise defined herein:

- (A) "Age" means chronological age of not less than 40 years.
- (B) "Credit transaction" means the grant, denial, extension or termination of credit to an individual.
- (C) "Disability" means the presence of a sensory, mental, or physical impairment that:

- (1) Is medically cognizable or diagnosable; or
- (2) Exists as a record or history; or
- (3) Is perceived to exist whether or not it exists in fact.

For purposes of this definition, "impairment" includes but is not limited to:

- (1) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or
- (2) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

To qualify for reasonable accommodation in employment, an impairment must have:

- (1) A substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or
- (2) The reasonable likelihood that job-related factors will aggravate it to the extent that it could create a substantially limiting effect if not accommodated

(D) "Employee" means

- (1) any individual whether paid or unpaid, engaged in employment for an employer, or
- (2) an applicant for employment.

(E) "Employer" means

- (1) any person employing one or more employees, or seeking to employ one or more employees,
 - (a) if the person has its principal place of business within Snohomish County; or
 - (b) does business within Snohomish County.
- (2) "Employer" does not mean
 - (a) the government of the United States or a corporation wholly owned by the government of the United States;
 - (b) an Indian tribe or a corporation wholly owned by an Indian tribe;
 - (c) the government of the State of Washington or any agency or department thereof, or
 - (d) the government of any municipality in Snohomish County which has an ordinance and enforcement entity which meets or exceeds the Snohomish County Human Rights Ordinance .

(F) "Employment" means the performance of services for an employer

- (1) for remuneration; or
- (2) as a volunteer; or
- (3) as a participant in a training or apprenticeship program.

(G) "Employment agency" means a person that undertakes to procure employees or opportunities to work for potential employees, through interviews, referrals, or advertising, or any combination thereof.

(H) "Gender identity" means the actual or perceived appearance, expression, identity, or behavior of a person as being male or female, whether or not that appearance, expression, identity or behavior is different from that traditionally associated with the person's designated sex at birth.

(I) "Housing status" means the type of housing in which an individual resides, whether publicly or privately owned; an individual's ownership status with respect to the individual's residence; or the status of having or not having a fixed residence.

(J) "Labor organization" includes any organization, labor union, or craft union, or any voluntary incorporated association designed to further the cause of the rights of union labor, which is constituted for the purpose, in whole or in part, of collective bargaining or of

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dealing with an employer concerning grievances, terms or conditions of employment, or apprenticeships or applications for apprenticeships, or of other mutual aid or protection in connection with employment, including apprenticeships or applications for apprenticeships.

(K) "Marital status" means the status of being single, married, divorced, separated, widowed or party to a registered domestic partnership.

(L) "Military discharge status" means the fact of having been discharged from the Armed Forces of the United States, their Reserve components or any National Guard or Naval Militia other than by a "dishonorable discharge."

(M) "National origin" means the place in which an individual or one of his or her ancestors was born.

(N) "Parental status" means the status of living with one or more dependent minors or disabled children.

(O) "Person" means one or more individuals; partnerships, associations, or organizations; labor organizations, labor unions, joint apprenticeship committees, or union labor associations; corporations; recipients of County funds; legal representatives, trusts, trustees in bankruptcy, or receivers; state governments other than that of Washington; or commercial operations or entities controlled by governments other than those of Washington, or of the United States.

(P) "Public accommodation" means a person, place, business establishment, or agency that sells, leases, provides, or offers any product, facility, or service to the general public in Snohomish County, regardless of ownership or operation

(1) by a public body or agency;

(2) for or without regard to profit; or

(3) for a fee or not for a fee.

"Public accommodation" also means an institution, club, association, or other place of accommodation in Snohomish County, whether or not open to the general public, that provides regular meal service and regularly receives payment for dues, fees, accommodations, facilities, or services from or on behalf of nonmembers for the furtherance of trade or business.

"Public accommodation" also means any products, facilities, or services of a nonpublic accommodation that are made available in Snohomish County to the general public or to the customers or patrons of another establishment that is a public accommodation.

(Q) "Religion" means all aspects of religious observance and practice, as well as belief, or the actual identification with or perceived identification with a religion.

(R) "Sexual orientation" means the status or expression, whether actual or perceived, of heterosexuality, homosexuality, or bisexuality.

(S) "Source of income" means the lawful manner by which an individual supports himself or herself and his or her dependents.

(T) "Unlawful discrimination" means discrimination against a person because of the actual or perceived status, practice, or expression of that person's race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity or housing status; or the actual or perceived association with such a person.

X.XX.030 EMPLOYMENT

(A) **COVERAGE** The prohibitions against unlawful discrimination contained in this section apply as follows,

1) to employment that is or would be in whole or in part in Snohomish County; or

2) when the act of unlawful discrimination takes place in Snohomish County.

(B) **PROHIBITIONS**

(1) **EMPLOYMENT.** No employer shall directly or indirectly discriminate against any individual in hiring, classification, grading, recruitment, discharge, discipline, compensation, selection for training and apprenticeship, or other term, privilege, or condition of employment on the basis of unlawful discrimination.

(2) **EMPLOYMENT AGENCY.** No employment agency shall directly or indirectly discriminate against any individual in hiring, classification, grading, recruitment, discharge, discipline, compensation, selection for training and apprenticeship, or other term, privilege, or condition of employment on the basis of unlawful discrimination.

(3) **LABOR ORGANIZATIONS.** No labor organization shall limit, segregate, or classify its membership, or limit employment opportunities, selection, and training for apprenticeship in any trade or craft, or otherwise take, or fail to take, any action which affects adversely any individual's status as an employee, or as an apprentice, or as an applicant for apprenticeships, or wages, tenure, hours of employment, or apprenticeship conditions, on the basis of unlawful discrimination.

(C) **EXCEPTIONS** The prohibitions contained in this section shall not apply to any of the following:

(1) **BFOQ.** Hiring or selecting between individuals for bona fide occupational qualifications.

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(2) MILITARY DISCHARGE STATUS. Use of an individual's unfavorable discharge from military service as a valid employment criterion where

- (a) authorized by federal law or regulation; or
- (b) where the affected position of employment involves the exercise of fiduciary responsibilities and the reasons for the unfavorable discharge relate to his or her fiduciary capacity; or
- (c) where the reasons for the unfavorable discharge specifically relate to criteria which constitute a bona fide occupational qualification for a particular job.

(3) VETERANS. Giving preferential treatment to veterans and their relatives as required by federal or state law or regulation.

(4) RELIGION. Giving preference in employment by a religious corporation, association, educational institution, or society to individuals of a particular religion to help carry out the religious activities of such corporation, association, educational institution or society. This exception does not include those portions of operations that would otherwise be considered a public accommodation or accepts a fee for services from persons other than the membership of the designated religious corporation, association, educational institution or society.

(D) RELIGIOUS ACCOMMODATION

(1) No employer shall refuse to make all reasonable efforts to accommodate the religious beliefs, observances, and practices of employees or prospective employees unless the employer demonstrates that he or she is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(2) Reasonable efforts to accommodate include, but are not limited to, allowing an employee:

- (a) to take a day of paid leave or vacation, where applicable under the employee's employment agreement; or
- (b) to be excused from work without pay and without discipline or other penalty; or
- (c) to elect to take the day off with pay in order to practice the employee's religious beliefs, and to make up the lost work time at a time and date consistent with the operational needs of the employer's business. Any employee who elects such deferred work shall be compensated at his or her regular rate of pay, regardless of the time and date at which the work is made up. The employer may require that any employee who plans to exercise option (c) of this paragraph provide the employer with notice of the employee's intention to do so, no less than five days prior to the date of absence.

(E) SEXUAL HARASSMENT

No employer, employee, agent of an employer, employment agency, or labor organization (hereinafter referred to collectively in this section as "employer") shall engage in sexual harassment. "Sexual harassment" means any unwelcome sexual advance, request for sexual favors, or conduct of a sexual nature when

- (1) submission to such conduct is an explicit or implicit term or condition of an individual's employment; or
- (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual; or
- (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. An employer is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. An employer is responsible for acts of sexual harassment between co-employees in the workplace where the employer (or its agents or supervisory employees) knew or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action. An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knew or should have known of the conduct and failed to take immediate and appropriate corrective action.

(F) NATIONAL ORIGIN

No employer may discriminate based on national origin under the guise of discrimination based on an individual's foreign education or training. Nothing in this Ordinance shall be construed to conflict with federal or state licensing or certification requirements.

X.XX.040 CREDIT TRANSACTIONS

(A) PROHIBITION

No person shall discriminate in Snohomish County against any individual in any aspect of a credit transaction or in any term or condition of bonding on the basis of unlawful discrimination.

(B) SEXUAL HARASSMENT

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No person shall engage in sexual harassment in Snohomish County in any aspect of a credit transaction or in any term or condition of bonding. "Sexual harassment" means any unwelcome sexual advance, request for sexual favors, or conduct of a sexual nature when

- (1) submission to such conduct is an explicit or implicit term or condition of an individual's credit transaction or of bonding; or
- (2) submission to or rejection of such conduct by an individual is used as the basis for any credit or bonding decision affecting the individual; or
- (3) such conduct has the purpose or effect of substantially interfering with an individual's access to credit or bonding or creating an intimidating, hostile, or offensive environment in any aspect of bonding or in any aspect of a credit transaction.

X.XX.050 PUBLIC ACCOMMODATIONS

(A) PROHIBITION

No person that owns, leases, rents, operates, manages, or in any manner controls a public accommodation in Snohomish County shall withhold, deny, curtail, limit, or discriminate concerning the full use of such public accommodation by any individual on the basis of unlawful discrimination.

(B) EXCEPTIONS

- (1) The prohibition contained in this section shall not apply to sex discrimination in any of the following:
 - (a) **DISTINCTLY PRIVATE FACILITY.** Any facility that is distinctly private in nature, such as rest rooms, shower rooms, bath houses, dressing rooms, or health clubs.
 - (b) **SLEEPING ROOMS.** Any facility that restricts rental of residential or sleeping rooms to individuals of one sex.
 - (c) **EDUCATIONAL INSTITUTIONS.** Any educational institution that restricts enrollment of students to individuals of one sex.
 - (d) For the purposes of the exceptions set forth in this section, the determination of an individual's sex or gender shall be based upon the sex or gender of that individual as reflected on any official identification of that individual recognized by the State of Washington, including a driver's license or state identification card.
- (2) The Snohomish County Commission on Human Rights ("Commission") as set forth herein shall adopt rules specifying any additional exceptions to the prohibition contained in this section based on bona fide considerations of public policy.
- (3) Notwithstanding anything to the contrary contained herein, nothing contained in this section shall require any person who does not participate in the federal Section 8 housing assistance program (42 U.S.C 1437f) to accept any subsidy, payment assistance, voucher, or contribution under or in connection with such program or to lease or rent to any tenant or prospective tenant who is relying on such a subsidy, payment assistance, contribution, or voucher for payment of part of the rent for such place of accommodation.

(C) SEXUAL HARASSMENT

No person who is, owns, leases, rents, operates, manages, or in any manner controls a public accommodation shall engage in sexual harassment affecting access to, participation in, or the full use of such public accommodation. "Sexual harassment" means any unwelcome sexual advance, request for sexual favors, or conduct of a sexual nature when (1) submission to such conduct is an explicit or implicit term or condition of an individual's access to, participation in, or full use of a public accommodation; or (2) submission to or rejection of such conduct by an individual is used as the basis for any decision affecting the individual's access to, participation in, or full use of a public accommodation; or (3) such conduct has the purpose or effect of substantially interfering with an individual's access to, participation in, or full use of any public accommodation or creating an intimidating, hostile, or offensive environment with respect thereto.

X.XX.060 HOUSING

(A) Whenever used in this section, the following definitions apply:

- (1) "Person" shall mean any person as defined in section X.XX.020 that is also an owner, lessor, sublessor, assignor, managing agent, or other individual, firm, or corporation having the right to sell, rent, lease, or sublease any housing unit

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within Snohomish County, or any agent, broker, or other individual working on behalf of any such individual, firm, or corporation.

(2) "Real estate transaction" means the sale, exchange, rental, occupancy, lease, sublease, or lease renewal of real property for residential purposes in Snohomish County or the provision of services or utilities in connection with such sale, exchange, rental, occupancy, lease, sublease, or lease renewal. "Real estate transaction" also means with respect to activity conducted on property located in Snohomish County, the brokering or appraising of residential real property in Snohomish County and the making, purchasing, or guaranteeing of loans or mortgages or providing any other financial assistance either (a) for purchasing, constructing, improving, repairing, or maintaining a dwelling or (b) secured by residential real property.

(B) PROHIBITIONS

(1) TERMS AND CONDITIONS. No person shall make any distinction, discrimination, or restriction in the price, terms, conditions, or privileges of any real estate transaction, including the decision to engage in or renew any real estate transaction, on the basis of unlawful discrimination.

(2) DISCRIMINATORY COMMUNICATIONS. No person shall publish, circulate, issue, or display, or cause to be published, circulated, issued, or displayed, any communication, notice, advertisement, sign or other writing of any kind relating to a real estate transaction which will indicate or express any unlawful limitation or discrimination on the basis of unlawful discrimination.

(3) LISTINGS. No person shall deliberately and knowingly refuse examination of any listing of residential real property within Snohomish County to any individual because of unlawful discrimination.

(4) REPRESENTATIONS. No person shall deliberately and knowingly represent to an individual that residential real property is not available for inspection, sale, rental, or lease in Snohomish County when in fact it is available, or fail to bring a residential real estate listing in Snohomish County to an individual's attention, or refuse to permit a person to inspect residential real property in Snohomish County because of unlawful discrimination.

(5) BLOCKBUSTING. No person shall solicit, for sale, lease, or listing for sale or lease, residential real property within Snohomish County on the grounds of loss of value due to the present or prospective entry into any neighborhood of any individual or individuals of any particular race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status.

(6) ENCOURAGEMENT OF BLOCKBUSTING. No person shall distribute or cause to be distributed written material or statements designed to induce any owner of residential real property in Snohomish County to sell or lease his, her, or its property because of any prospective change in the race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status of individuals in the neighborhood.

(7) CREATING ALARM. No person shall intentionally create alarm among residents of any community within Snohomish County by transmitting communication in any manner, including a telephone call whether or not conversation thereby ensues, with a design to induce any person within Snohomish County to sell or lease his or her residential real property within Snohomish County because of the present or prospective entry into the vicinity of the property of any individual or individuals of any particular race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status.

(C) EXCEPTIONS The prohibitions in this section shall not apply to any of the following:

(1) AGE. Restricting rental or sale of a housing accommodation to an individual of a certain age group (a) when such housing accommodation is authorized, approved, financed, or subsidized in whole or in part for the benefit of that age group by a unit of state, local, or federal government; or (b) when the duly recorded initial declaration of a condominium or community association limits such housing accommodations to individuals 50 years of age or older, provided that an individual or members of the household of an individual owning or renting a unit in such housing accommodation prior to the recording of the initial declaration shall not be deemed to be in violation of the age restriction as long as the individual or household member continues to own or reside in the housing accommodation.

(2) RELIGION. Limitation by a religious organization, association, or society, or any not-for-profit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, of the sale, rental, or occupancy of a dwelling which it owns or operates for other than a commercial purpose to individuals of the same religion, or from giving preference to such individuals. This exception does not include those portions of operations that would otherwise, if not for this exception, be considered a public accommodation or accepts a fee for services from persons other than the membership of the designated religious corporation, association, educational institution or society.

(3) SINGLE SEX. Restricting the rental of rooms in a housing accommodation to individuals of one sex. The determination of an individual's sex or gender shall be based upon the sex or gender of that individual as reflected on any official

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identification of that individual recognized by the State of Washington, including a driver's license or state identification card.

(4) PRIVATE ROOMS. Rental of a room or rooms in a private home by an owner if he or she or a member of his or her family resides therein or, while absent for a period of not more than twelve months, if he or she or a member of his or her family intends to return to reside therein.

(5) Notwithstanding anything to the contrary contained in this chapter, nothing contained in this section shall require any person who does not participate in the federal Section 8 housing assistance program (42 U.S.C 1437f) to accept any subsidy, payment assistance, voucher, or contribution under or in connection with such program or to lease or rent to any tenant or prospective tenant who is relying on such a subsidy, payment assistance, contribution, or voucher for payment of part of the rent for such housing accommodation.

D) SEXUAL HARASSMENT No person shall engage in sexual harassment in any real estate transaction. "Sexual harassment" means any unwelcome sexual advance, request for sexual favors, or conduct of a sexual nature when

(1) submission to such conduct is an explicit or implicit term or condition of an individual's real estate transaction; or

(2) submission to or rejection of such conduct by an individual is used as the basis for any decision affecting the individual's real estate transaction; or

(3) such conduct has the purpose or effect of substantially interfering with an individual's real estate transaction or creating an intimidating, hostile, or offensive environment with respect thereto.

X.XX.070 COUNTY FACILITIES, SERVICES AND PROGRAMS

(A) PROHIBITION No person shall engage in unlawful discrimination in the provision or distribution of any Snohomish County ("County") facilities, services, or programs.

(B) SEXUAL HARASSMENT No person shall engage in sexual harassment in the provision or distribution of any County facilities, services, or programs. "Sexual harassment" means any unwelcome sexual advance, request for sexual favors, or conduct of a sexual nature when

(1) submission to such conduct is an explicit or implicit term or condition of an individual's use of County facilities, or the provision of County services or programs; or

(2) submission to or rejection of such conduct by an individual is used as the basis for any decision affecting the provision or allocation of County services or programs, or the use of County facilities; or

(3) such conduct has the purpose or effect of substantially interfering with an individual's access to County services, programs, or facilities, or the conduct creates an intimidating, hostile, or offensive environment for the provision of County services or programs, or in the use of County facilities.

X.XX.080 CONTRACTS

(A) PROHIBITION No person who is a party to a contract with Snohomish County ("County") shall engage in unlawful discrimination or sexual harassment against any individual in the terms or conditions of employment, credit, public accommodations, housing, or provision of County facilities, services or programs. "Sexual harassment" has such meaning as is ascribed to it in other articles of this Ordinance.

(B) CONTRACT PROVISIONS The purchasing agent for the County, and all other department heads, as authorized, shall include a provision in all County contracts that sets forth the County's policies with respect to unlawful discrimination and sexual harassment, as embodied in this Ordinance, and that requires every contractor to certify its compliance with these policies and its agreement to abide by such policies as a part of the contractor's contractual obligations. All County contracts shall further provide that if any party to a contract with the County is found to have violated any provision of this Ordinance, or furnished false or misleading information in any investigation, hearing, or inquiry held pursuant to this Ordinance, that contract may be subject to a declaration of default and termination.

(C) EXCEPTION This section applies only to contracts executed after the effective date of this Ordinance.

X.XX.090 ADDITIONAL CIVIL RIGHTS VIOLATIONS

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(A) RETALIATION No person shall retaliate against any person because that person in good faith has opposed that which he or she reasonably believed to be unlawful discrimination, sexual harassment, or other violation of this chapter or has made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this chapter.

(B) AIDING AND ABETTING No person shall aid, abet, compel, or coerce a person to commit a violation under this chapter.

(C) INTERFERENCE No person shall willfully interfere with the performance of a duty or the exercise of a power by the Commission or one of its members or staff.

X.XX.100 ENFORCEMENT

(A) COMMISSION ON HUMAN RIGHTS

(1) The Snohomish County Council (council) shall appoint five members to a Commission on Human Rights ("Commission"); one each to be appointed by each councilmember at the completion of the serving constituent commissioners term who is serving from their district. In addition one member each shall be appointed by the sheriff and county executive of Snohomish county subject to confirmation by the county council. In appointing and confirming members to the Commission, the council shall take into account the diversity of communities and conditions protected by this chapter and shall seek the input of affected communities. To establish the commission, terms of service will be as follows: Three of the initial appointees shall be appointed for term expiring on July 1 of the year following their appointment, two shall be appointed for term expiring on July 1 of the second year following their appointment, and two shall be appointed for terms ending on July 1 of the third year following their appointment. Thereafter, members shall be appointed for three-year terms.

(a) In the event of a resignation, the sheriff, county executive, or the councilperson who's district the resigning commissioner is from shall appoint a replacement to fill the unexpired term of the departing commissioner, consistent with the procedures required above. After completion of the unexpired term the Councilperson shall appoint a commissioner for the new term using the normal appointment process.

(2) Each member of the Commission

(a) shall reside within the corporate boundaries of Snohomish County;

(b) shall not be an employee of the County during his or her term; with the exception of the sheriff and county executive appointment as stated in (d) and

(c) shall serve without compensation, but may be reimbursed for reasonable expenses incurred in the performance of Commission duties.

(d) The appointment of the Commissioner from the sheriff department and the county executive may include classified staff from the departments of the appointing authority.

(3) A majority of the members of the Commission shall constitute a quorum for the purpose of transacting business.

(4) At its first meeting after July 1 of each year, the Commission shall elect from its membership a chairperson and a vice chairperson. The chairperson shall preside at all meetings and hearings of the Commission. In the absence of the chairperson, the vice chairperson shall preside.

(5) The Council may remove any member of the Commission for incompetence, substantial neglect of duty, gross misconduct, malfeasance in office, or violation of any law, after written notice, stating with particularity the grounds for removal and providing an opportunity for the member to respond.

(6) The Commission shall appoint an Executive Director of the staff for the Commission. The Executive Director shall be responsible for the day-to-day operation of the Commission and its staff.

(7) The Commission shall be responsible for initiating, receiving, and investigating violations of this Ordinance.

(8) The Commission may delegate to the Commission staff as the Commission considers necessary any matter properly before the Commission. The Commission shall adopt rules which specify those duties and responsibilities which may be delegated to Commission staff, and those duties and responsibilities which shall remain with the members of the Commission.

(B) PROCEDURE

(1) Complaint Process

(a) Within 180 days after the date that a violation of this Ordinance is alleged to have been committed, a written complaint may be filed with the Commission. A written complaint may be filed by a person alleging an injury has occurred ("complainant") by a violation of this Ordinance, or a complaint may be issued by the Commission. For any continuing violation, the complaint may be filed within 180 days after the last day of the violation.

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- (b) The complaint shall be in such detail as to substantially apprise any party properly concerned as to the time, place, and facts surrounding the alleged violation. The Commission may reject without prejudice and without investigation any complaint that fails to set forth sufficient evidence to state a prima facie case of a violation of this Ordinance.
- (c) The Commission shall serve a copy of the complaint on the party against whom it is made ("respondent") within 10 days after it is filed with the Commission. The Commission's failure to meet this or any other deadline shall not prejudice the complainant.
- (d) Both the complainant or the respondent may be represented by counsel at any stage of conciliation, investigation, or hearing on the complaint.

(2) Investigation Process Complaint investigated — Conference, conciliation — Agreement, findings — Rules.

- (a) After the filing of any complaint, the chairperson of the commission shall refer it to the appropriate section of the commission's staff for prompt investigation and ascertainment of the facts alleged in the complaint. The investigation shall be limited to the alleged facts contained in the complaint. The results of the investigation shall be reduced to written findings of fact, and a finding shall be made that there is or that there is not reasonable cause for believing that an unfair practice has been or is being committed. A copy of said findings shall be provided to the complainant and to the person named in such complaint, hereinafter referred to as the respondent.
- (b) If the finding is made that there is reasonable cause for believing that an unfair practice has been or is being committed, the commission's staff shall immediately endeavor to eliminate the unfair practice by conference, conciliation, and persuasion.
- (c) If an agreement is reached for the elimination of such unfair practice as a result of such conference, conciliation, and persuasion, the agreement shall be reduced to writing and signed by the respondent, and an order shall be entered by the commission setting forth the terms of said agreement. No order shall be entered by the commission at this stage of the proceedings except upon such written agreement, except that during the period beginning with the filing of complaints alleging an unfair practice with respect to real estate transactions pursuant to X.XX.060(A) through X.XX.060(D), and ending with the filing of a finding of reasonable cause or a dismissal by the commission, the commission staff shall, to the extent feasible, engage in conciliation with respect to such complaint. Any conciliation agreement arising out of conciliation efforts by the commission shall be an agreement between the respondent and the complainant and shall be subject to the approval of the commission. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this chapter.
- (d) If no such agreement can be reached, a finding to that effect shall be made and reduced to writing, with a copy thereof provided to the complainant and the respondent.
- (e) The commission may adopt rules, including procedural time requirements, for processing complaints alleging an unfair practice with respect to real estate transactions pursuant to X.XX.060(A) through X.XX.060(D) and which may be consistent with the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.), but which in no case shall exceed or be more restrictive than the requirements or standards of such act.
- (f) The Commission shall investigate each complaint to determine whether there is a preponderance of evidence that a violation of this Ordinance has occurred. The investigation shall be completed within 180 days after the filing or issuance of the complaint, unless it is impractical to do so within that time. If the Commission determines that there is not a preponderance of evidence, written notification of the determination shall be served on the complainant and the respondent. The complainant shall have 30 days from receipt of this notice there is not a preponderance of evidence to file with the Commission a request for reconsideration of the Commission's determination.
 - 1) request for reconsideration is only available in the event that a finding of no preponderance of evidence has been issued.
- (g) Notwithstanding the above-referenced 180-day time period, the Commission may defer investigation of a timely filed complaint when the same complaint, or a substantially similar complaint, has been filed by the complainant with another

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administrative agency. The Commission shall adopt rules specifying under what circumstances investigation of a complaint may be deferred.

(h) The Commission may attempt to settle or adjust any complaint by conciliation at any time that the complaint is pending.

(i) The Commission shall issue subpoenas for the appearance of witnesses, the production of evidence, or both, in the course of investigations and hearings. Subpoenas shall be issued where necessary for a full and complete investigation. A subpoena shall be served in the same manner as subpoenas issued under the Rules of the Washington Supreme Court to compel the appearance of a deponent and shall be subject to the same witness and mileage fees fixed by law for such subpoenas. The Commission shall adopt rules for determining objections to any subpoenas and prescribing any other requirements for subpoenas.

(j) If the Commission concludes at any time following the filing or issuance of a complaint that in order to carry out the purposes of this Ordinance a civil action to preserve the status quo or to prevent irreparable harm is advisable, then the Commission may pursue a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint.

(k) If any person refuses to comply with a Commission subpoena, order, or decision, the Commission may seek judicial enforcement.

(l) The Commission shall adopt liberal rules for discovery so that the complainant and the respondent may each obtain documents and other relevant information in the other's possession.

(m) The Commission shall not disclose, other than to the parties or at the hearing, on the complainant, any evidence obtained in the course of the investigation or conciliation unless otherwise required by law.

(n) The Commission may dismiss a complaint or may enter an order of default against a party for failure to cooperate with the Commission.

(3) Hearings

(a) In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of findings to that effect, the entire file, including the complaint and any and all findings made, shall be certified to the chairperson of the commission. The chairperson of the commission shall thereupon request the appointment of an administrative law judge or a county hearings examiner to hear the complaint and shall cause to be issued and served in the name of the commission a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before an administrative law judge or county hearing examiner, at a time and place to be specified in such notice.

(b) The place of any such hearing may be the office of the commission or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the commission: PROVIDED, That the complainant may retain independent counsel and submit testimony and be fully heard. No member or employee of the commission who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall the member or employee participate in the deliberations of the administrative law judge or hearing examiner in such case. Any endeavors or negotiations for conciliation shall not be received in evidence.

(c) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine the complainant.

(d) The administrative law judge or hearing examiner conducting any hearing may permit reasonable amendment to any complaint or answer. Testimony taken at the hearing shall be under oath and recorded.

(e) If, upon all the evidence, the administrative law judge or hearing examiner finds that the respondent has engaged in any unfair practice, the administrative law judge or hearing examiner shall state findings of fact and shall issue and file with the commission and cause to be served on such respondent an order requiring such respondent to cease and desist from such unfair practice and to take such affirmative action, including, (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, an admission or restoration to full membership rights in any respondent organization, or to take such other action as, in the judgment of the administrative law judge or hearing examiner, will effectuate the purposes of this chapter, including action that could be ordered by a court, and including a requirement for report of the matter on compliance.

(f) The final order of the administrative law judge or hearing examiner shall include a notice to the parties of the right to obtain judicial review of the order by appeal in accordance with the provisions of RCW 34.05.510 through 34.05.598, and that such appeal must be served and filed within thirty days after the service of the order on the parties.

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(g) If, upon all the evidence, the administrative law judge finds that the respondent has not engaged in any alleged unfair practice, the administrative law judge shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

(h) An order dismissing a complaint may include an award of reasonable attorneys' fees in favor of the respondent if the administrative law judge concludes that the complaint was frivolous, unreasonable, or groundless.

(i) The commission shall establish rules of practice to govern, expedite, and effect

(4) REMEDIES

(a) Relief may include, but is not limited to, an order:

(1) to cease the illegal conduct complained of and to take steps to alleviate the effect of the illegal conduct complained of;

(2) to pay actual damages, as reasonably determined by the Commission, for injury or loss suffered;

(3) to hire, reinstate, or upgrade the complainant, with or without back pay, or to provide such fringe benefits as the complainant may have been denied;

(4) to sell or lease housing in question to the complainant;

(5) to admit the complainant to a public accommodation;

(6) to extend to the complainant the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of the respondent;

(7) to pay the complainant all or a portion of the costs, including reasonable attorney's fees, expert witness fees, witness fees, and duplicating costs, incurred in pursuing the complaint before the Commission or at any stage of judicial review;

(8) to take such action as may be necessary to make the complainant whole, including, but not limited to, awards of interest on the actual damages and back pay from the date of the violation;

(9) to file with the Commission a report as to the manner of compliance;

(10) to post in a conspicuous place notices which the Commission may publish or cause to be published setting forth requirements for compliance with this Ordinance or other relevant information which the Commission determines necessary to explain this chapter; and

(11) to pay a fine of not less than \$100 for each offense. Every day that a violation(s) shall continue shall constitute a separate and distinct offense.

(b) The Commission may file with the Secretary of State for the state of Washington, or other licensing authority, a notice in the event that any licensed real estate broker or salesperson violates this chapter.

(c) All remedies shall be cumulative.

(5) INDIVIDUAL RIGHT OF ACTION

(a) Any individual injured by a violation of this chapter shall have cause of action against the violator. It is expressly the intention of this Ordinance to confer an individual rights of action which may be redressed in the courts in accordance with paragraphs (b), (c), (d), (d) and (e) of this subsection (5).

(b) Subsequent to a complaint being timely filed with the Commission, where such complaint alleges a violation(s) under sections .030, .040, .050, .070, or .080 of this chapter, and prior to an evidence finding a complainant may request of the Commission to have the claims asserted in that complaint decided in a civil action in a court of general jurisdiction. The Commission in its discretion may issue a written authorization to the complainant to proceed before such a court. Upon receipt of the written authorization the complainant shall give notice of his or her decision to proceed to court to the Commission and to all other complainants and respondents to whom the complaint relates.

Under this paragraph a complainant has 90 days from the date the written authorization is received within which to bring suit. The Commission shall adopt rules specifying what the Commission may consider in determining whether to grant or deny a request to proceed to court.

(c) Subsequent to a complaint being timely filed with the Commission, where such complaint alleges violation(s) under sections .030, .040, .050, .070, or .080 of this chapter of this Ordinance, and subsequent to a finding of a preponderance of evidence a complainant may elect to have the claims asserted in the complaint decided in a civil action in a court of general jurisdiction. This election must be made not later than 20 days after all parties are notified of the Commission's finding of a preponderance of evidence. If the election is not made within the specified time period the Commission shall retain jurisdiction of the complaint. The complainant shall give notice of election to the Commission and to all other complainants and respondents to whom the complaint relates. The Commission shall issue a written authorization to the complainant to

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proceed before such a court. A complainant who chooses to proceed to court has 90 days from the date the written authorization is received within which to bring suit.

(d) Subsequent to a complaint being timely filed with the Commission, where such complaint alleges a violation under section .060 of this chapter, and subsequent to a finding by the Commission that there is a preponderance of evidence that a violation of section .060 has occurred, a complainant or respondent may elect to have the claims asserted in the complaint decided in a civil action in a court of general jurisdiction. This election must be made not later than 20 days after all parties are notified of the Commission's finding of a preponderance of evidence. If the election is not made within the specified time period the Commission shall retain jurisdiction of the complaint. The complainant or respondent shall give notice of election to the Commission and to all other complainants and respondents to whom the complaint relates. The Commission shall issue a written authorization to the complainant or respondent to proceed before such a court. A complainant or respondent who chooses to proceed to court has 90 days from the date the written authorization is received within which to bring suit.

(e) The filing by a complainant or respondent of a complaint in any court based on some or all of the same issues as are raised in a complaint before the Commission shall automatically terminate the jurisdiction of the Commission over the complaint. In such a case, the Commission shall dismiss the complaint either on its own motion or on the motion of either party.

(f) Final disposition of a complaint by the Commission shall bar a suit in the courts on this chapter over the same issues, except a suit to review judicially the decision of the Commission.

(g) The Commission may seek to intervene in any civil action filed by a complainant or respondent pursuant to paragraphs (b), (c) and (d), of this subsection (5).

(6) ADDITIONAL POWERS AND DUTIES

The Commission shall have such additional powers and duties as reasonably flow from its responsibilities, which are consistent with the county charter and county code, including but not limited to:

(a) Advising and consulting with the Snohomish County Council and the County Executive on all matters involving discrimination and sexual harassment and recommending such legislative action as it may deem appropriate to effectuate the policy of this chapter.

(b) Advising and consulting with the Snohomish County Council, the County Executive, and officials, departments, and agencies of the County government on assuring and improving the equality of services to all citizens.

(c) Advising and consulting with the Snohomish County EEOC, Department of Human Resources and other County departments on the development and implementation of programs to train County employees in methods of dealing with intergroup relations, in order to develop respect for equal rights and to achieve equality of treatment regardless of race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status.

(d) Rendering an annual report of the activities of the Commission and making recommendations to the Snohomish County Council and County Executive. The report shall be published.

(e) Issuing such other rules and regulations as may be necessary to implement its powers, including rules of evidence and procedure for hearings.

(f) Conducting research, public forums, and educational programs on tensions between various groups within society, or practices of unlawful discrimination; conducting public hearings to ascertain the status and treatment of various racial, ethnic, religious, cultural, and social groups within society, means of alleviating discrimination and bias, and means of improving human relations within the County; and issuing such publications as may assist in the performance of its function.

(g) Upon approval of the Snohomish County Council, the Commission may enter into a written agreement with any political subdivision, municipal agency, or municipal government within the County, or any state or federal agency, whereby the Commission and such entity may agree to jointly process, transfer, or refer from one to the other for processing and investigation an individual's complaint alleging unlawful discrimination, sexual harassment, or other civil rights violation.

X.XX.110. JURISDICTION

It is the intent of this section to provide a working solution to any issue of municipal jurisdiction in Snohomish County in order to provide a uniform enforcement capability for the Snohomish County Human Rights Commission. It is the intent of the county to ensure all residents of the county, whether visiting, employed or residing inside a separate municipal jurisdiction within the county or within the jurisdiction of the county, have the same rights and protections as are provided in this ordinance.

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Where questions of jurisdictional authority within the confines of the boundaries of the County of Snohomish are unresolved in favor of the Commission authority and process, the commissioners shall enter into a signed memorandum of agreement with the appropriate state or federal authority with substantially similar authority, which will allow for the Commission to investigate complaints and refer findings to the appropriate authority with jurisdiction.

X.XX.120. APPLICABILITY

(1) If this Ordinance conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within its jurisdiction.

(2) If a municipal ordinance regulates conduct, which is prohibited under this Ordinance and provides remedies, this Ordinance shall not apply within that municipal jurisdiction with respect to such conduct. In all other circumstances, this Ordinance shall be enforceable within the municipal jurisdiction to the extent permitted under the Washington Constitution.

Section 2. SEVERABILITY. If any article, paragraph, sentence, or clause of this Ordinance or the application thereof to any person is for any reason deemed to be invalid or unconstitutional, such decision shall not affect any remaining portion, section, or part thereof or application of this Ordinance to any other person.

Section 3. EFFECTIVE DATE. This Ordinance shall take effect 60 days after becoming law.

PASSED this ___ day of _____, 2008.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Chairperson

ATTEST:

Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

DATE: _____

County Executive

ATTEST:

Approved as to form only:

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Deputy Prosecuting Attorney

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Modifications from Meeting of August 27th :

- II (C) Incorporated the definition of disability to duplicate the current state law
- II (E) (2)(d) Modified employer for ordinance jurisdiction over city if it meets or exceeds the county ordinance
- II (K) Included domestic partner in marital status
- II (P) Removed public accommodation definition which limited to 400 or more members
- III (C) (4) and VI (C)(2) Added modification to religious exemption for fee for service

Modifications from Meeting of September 17th 2007

- X (A) (1) Added language to clarify the establishment of the commission and the staggered terms of the commissioners
- X (A) (2) (b) Added exemption for the appointment of the commissioners from the sheriff and the county executive
- X (A) (2) (d) Add clarification of the exemption from XA2b that includes exempt personnel from the appointing department
- X (A) (8) Added language to include county court commissioner or administrative law judge
- X (B) (4) (d) changed Circuit Court to Superior Court
- X (E) (1) (2) (7) to place County Council before County Executive
- X (E) (3) Added EEOC

Modifications From Meeting of February 11. 2008

- XI Entire Section was added to clarify the intent to ensure uniformed coverage of the law in all jurisdictions within the county
- And renumbered the remaining sections

NEED:

Section 4. Sunset. Snohomish County Code Chapter _____, adopted by this ordinance or as amended after the effective date of this ordinance, is repealed, effective on the date six years following enactment unless re-enacted prior to that date as provided in County Charter 2.115.

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