

First Revision of Ordinances

City of Cambridge



In the Year One Thousand, Nine Hundred 84

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Inasmuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E Charter.

There shall be a Commission known as the Cambridge Human Rights Commission to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter 25 entitled "Human Rights" which reads as follows:

CHAPTER 25

HUMAN RIGHTS

1. There shall be a Cambridge Human Rights Commission consisting of eleven members, which may be altered by an amendment to this ordinance by the City Council

The Commission shall be considered a Department of the City, with all the rights and responsibilities thereof. The Executive Director of the Commission shall be considered the department head.

2. The members shall be appointed by the City Manager for terms of three years. Initial appointments shall be for the following terms: three members for a term of three years, four members for a period of two years, and four members for a period of one year. Any vacancy occurring other than by expiration of term shall be filled by appointment by the City Manager for the unexpired term.
3. A. Not less than two months prior to making such appointments, or re-appointments, the City Manager shall solicit nominations from as many public service groups and other sources which he deems appropriate as possible.

In keeping with the policy of the Cambridge City Council, the members of the Commission shall be representative of the population of the City of Cambridge. The Commission shall contain members of groups traditionally targets of discriminatory behavior.

- B. All members of the Commission shall be residents of the City of Cambridge when appointments are being made by the City Manager, and throughout their tenure.
- C. The Commission shall elect a chairperson from among its members. The chairperson shall be elected at the first meeting each year. The Commission members shall make an attempt to rotate the election of a chairperson each year thereafter.

Six (6) members shall constitute a quorum for the purpose of conducting the business of the Commission and all decisions shall be by majority vote of the Commission members present and voting.

The Commission shall adopt rules and regulations consistent with this Ordinance and the Law of the Commonwealth of Massachusetts to carry out the policy and provisions of this Ordinance and the powers and duties of the Commission in connection therewith. Said rules shall insure the due process rights of all persons involved in investigations and hearings.

All records of the Commission shall be public except as provided by state law.

Members of the Commission shall serve without compensation but reasonable per diem and necessary expense reimbursement shall be paid out of the budget of the Commission.

The Commissioners shall be classified as special municipal employees for the purposes of Chapter 268A of the Massachusetts General Laws.

- D. The Commission of Human Rights shall work with the City Manager and/or his assistants on matters pertaining to the human rights of Cambridge citizens. The main purpose for which this ordinance is enacted is to protect the human rights of all the citizens of Cambridge.
4. The Commission shall discuss human rights problem areas with the City Manager and make recommendations necessary to protect the human rights of all Cambridge citizens and employees.
 - A. The Commission shall request of the City Manager, department heads, and Superintendent of Schools, such information and staff support as is reasonable so that it may be properly informed.
 - B. The Commission may review and comment on all matters pertaining to the human rights of citizens. They may examine and scrutinize and comment on department budgets including the School Department budget.
 - C. The Commission shall, with the advice and consent of the City Manager, employ an Executive Director who shall be the executive officer of the Commission and shall be responsible for carrying out the policies and decisions of the Commission. The Commission may employ an Administrative Assistant or such other personnel as it may from time to time deem necessary.

The Commission shall, when appropriate, request the assistance of the staff and Commissions of the City engaged in related work, such as the Commission on the Status of Women, the Civic Unity Committee, the Commission on the Handicapped, the Fair Housing Office, the Affirmative Action Officer, the Consumers' Council, the Council on Aging, and the Veterans' Service Department, and shall at all times work cooperatively with these groups.

The Commission shall receive aid, advice, and opinions from the City Solicitor and the legal department, and be represented in court by the City Solicitor.

- D. The City Manager shall provide office space in City Hall to the Commission in order to give easy access to citizen complaints.
 - E. Each year, the Commission and the City Manager, together or separately, shall report to the City Council in writing as to the progress that is being made under this ordinance. These written reports may properly contain suggestions and recommendations which will further the aims of this ordinance.
5. The Commission may at any time question matters pertaining to Cambridge bona-fide residents who are faculty members and/or students of local schools and universities who are involved in Human Rights complaints.
 6. Any contract entered into by the City or the Cambridge Schools, or any of their agencies, departments, or subdivisions shall contain a covenant by the contractor and his or her subcontractors not to violate this Ordinance. Breach of this covenant shall be regarded as a material breach of the contract.

This Section shall not impair the obligation of any presently existing contract.

7. The City of Cambridge, every City contractor and subcontractor, every employer with one hundred (100) or more employees, every owner of an apartment building or housing complex of fifteen (15) or more units, every employment agency, every realtor and real estate agency, and every apartment or roommate service shall prominently post and keep posted the following notice at its place of business or in such apartment building or housing complex:

"Discrimination on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is unlawful in the City of Cambridge. Chapter 25, Cambridge City Code.

Cambridge Human Rights Commission

" _____

The blanks in the model above shall be properly filled with the address and telephone number of the offices of the Commission.

It shall be a crime punishable by a fine of not more than fifty dollars (\$50) per violation to willfully violate this Section.

8. A. The Commission shall receive and investigate complaints of, and initiate its own investigation of the following activities and unlawful practices:
- (1.) Presence in the City of prejudice, intolerance, or bigotry, including but not limited to such matters as the choice of lifestyle and the consequences such attitudes in the community engender.
 - (2.) It shall be a crime punishable by a fine of not more than three hundred dollars (\$300), or the maximum under State Law, per violation to commit any unlawful practice under this Section 8.
 - (3.) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to discriminate against any person in the provision of services, facilities, employment, housing or real estate transactions, education, or other opportunities because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.
 - (4.) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to commit any act prohibited in this Ordinance which would be unlawful if committed by a private person.
 - (5.) It shall be an unlawful practice to deny any person or group equal access to city services in employment, housing, education, recreation, or other areas where such denial is based on limited English language skills.

- (6.) It shall be an unlawful practice for an employer directly or indirectly to refuse to hire or employ or to bar or to discharge from employment, training, or apprenticeship or to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment, training, or apprenticeship, because of the race, color, sex, age, religious creed, physical handicap, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification. An employer who asserts that a discriminatory practice is justified because of a bona fide occupational qualification that has not been certified as such by the Commission or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws, shall have the burden of showing i) that the discrimination is in fact a necessary result of a bona fide occupational qualification, and ii) that there exists no less discriminatory means of satisfying the occupational qualifications.

Reasonable accomodation shall be made to enable the employment or continued employment of a disabled person unless the employer can demonstrate that the extent of the accomodation required to meet the limitations of the person would impose an undue hardship or safety hazard to the employer's business.

The following practices shall be exempt from the operation of this Section:

- a. Employment practices of an employer of fewer than six (6) persons.
- b. Employment of an individual by his or her parent, child, or spouse.
- c. Employment by a religious institution of individuals performing a service related to a bona fide religious purpose.
- d. Employment of an individual for work within the home of the employer.
- e. Employment of an individual for the rendering of services to the person of the employer or his or her family.

The following practices shall not be deemed unlawful:

- f. Employment programs designed to effect affirmative action by giving special preference to women, racial minorities, or veterans provided that such employment programs shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- g. Employment limited to the elderly or disabled, provided that such employment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

- h. Observance by an employer of the conditions of a bona fide employee benefits system or plan (including, but not limited to, a contractual seniority system), provided that no such system or plan shall provide an excuse for failure to hire any individual.
- (7.) It shall be an unlawful practice for any employment agency directly or indirectly to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual. An employment agency that specializes in the recruitment and placement of elderly or disabled employees shall be exempt from the operation of this Section with respect to such specialized services, provided that such services shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- (8.) It shall be an unlawful practice for a labor organization directly or indirectly to refuse to admit to membership, training, apprenticeship, or classification or to otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual.
- (9.) It shall be an unlawful practice for an employer, employment agency, or labor organization directly or indirectly to advertise or otherwise publicize that any individual is unwelcome or not employable because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification or one of the exceptions set forth in Sections 8A(6), 8A(7), or 8A(8).
- (10.) It shall be an unlawful practice for any person directly or indirectly to refuse to engage in a real estate transaction with any person or to set discriminatory terms or conditions with respect to a real estate transaction with any person or to advertise or otherwise publicize that any person is unwelcome or may not enter into a real estate transaction because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person or of a person residing with such person.

This section does not create an affirmative duty to remove barriers for the disabled in excess of the requirements of existing laws and ordinances, but reasonable accommodation shall be made to enable the provision of housing for a handicapped person.

The following practices shall be exempt from the operation of this Section:

- a. The leasing or renting of a room or rooms within a dwelling or apartment which is occupied by the lessor as his or her residence and in which the roomer or boarder must pass through the space or a portion thereof occupied by such lessor in order to gain access to the room or rooms thus let or rented.
- b. The leasing or renting of a single apartment in a two-family dwelling, the other residential unit of which is occupied by the lessor as his or her residence.
- c. The leasing, rental, or other provision with or without fee or space within a church, temple, synagogue, religious school, or other facility used primarily for religious purposes.

The following practices shall not be deemed unlawful:

- d. The establishment of government-sponsored housing programs operated either directly by government agencies or indirectly through government subsidization and regulation, which programs are designed to assist the elderly, disabled, or economically disadvantaged individuals, provided that such programs shall not discriminate among the elderly, disabled, or economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - e. The establishment of housing set aside for or limited to the elderly or the disabled, provided that such establishment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - f. The establishment of same-sex dormitories or portions thereof by educational facilities, provided that such establishment shall not discriminate on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - g. The establishment of a hospital, convent, monastery, shelter, asylum, or residential facility for the care and lodging of persons in need of special medical, rehabilitative, social, or psychological support, including but not limited to half-way houses, drug treatment centers, detoxification facilities, shelters for the homeless, and the like.
- (11.) It shall be an unlawful practice for any bank, financial institution, or any other credit-granting or -approving institution or person, including a retail store that sells goods or services on credit, directly or indirectly to discriminate in the granting, reporting, approval, or extension of any form of loan or credit to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person. It shall not be an unlawful practice under this Section to establish or review the creditworthiness of any person by seeking information relevant to such creditworthiness as amount and source of income, age, employment history, credit references, and the number and age of dependents.

- (12.) It shall be an unlawful practice for any insurance company, insurance agent, or person engaged in the service of providing insurance to refuse to insure any person or discriminate in the terms of insuring any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, unless based on a bona fide actuarially determined insurance factor, such as the age or health of the person, that affects the risk for which insurance is being sought.

In accordance with Federal court cases, it is the intention of this section that actuarial data be gender-neutral.

- (13.) It shall be an unlawful practice for any bonding institution or person engaged in the service of providing financial and performance bonds to refuse to bond any person or discriminate in the terms of bonding because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

- (14.) It shall be an unlawful practice for any educational facility directly or indirectly to fail or refuse to admit, or to curtail or terminate admission to, or to discriminate in the terms or conditions of educational services, programs, opportunities, or curriculum offered by it to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The establishment by an educational facility of minimum or maximum age requirements for any educational program, provided that such establishment shall not discriminate among the potential students on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- b. The selection of students by a religious educational facility that is limited exclusively or gives preference to members of such religion, provided that such selection shall not discriminate among the members of such religion on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- c. The maintenance or establishment by an education facility of a school or program limited to members of only one sex or otherwise segregated by sex, provided that such facility shall not discriminate among the members of such sex on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- d. Educational programs or policies designed to effect affirmative action by giving special preference to women, racial minorities, or veterans, provided that such programs or policies shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

- e. The establishment by an educational facility of special programs designed to assist or provide special training for the disabled, the elderly, individuals not fluent in English, or the economically disadvantaged. Provided that such selection shall not discriminate among the disabled, elderly, individuals not fluent in English, or the economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

(15.) It shall be an unlawful practice for any person directly or indirectly to withhold, deny, curtail, or in any manner limit the full use of a public accommodation by any person, or discriminate against such person with respect to the use of such accommodation, because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

It shall be an unlawful practice for any person directly or indirectly to advertise or otherwise publicize that any person is unwelcome to the full use of any public accommodation because of the race, color, disability, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The designation of a public accommodation for the exclusive or preferential use of the elderly or the disabled.
- b. The designation of a restroom or of a privately-owned athletic or exercise facility for the exclusive or preferential use of members of a single sex.
- c. The advertisement of a public accommodation as being for the preferential use of persons of a particular sex, age, religious creed, national origin or ancestry, sexual orientation, marital status, family status, or military status, provided such preference is not advertised as or implied to be a requirement for entry or use of such public accommodation.

(16.) It shall be an unlawful practice for any person to harass, intimidate, threaten, assault, or otherwise discriminate against any person in or upon any public accommodation because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, or attempt to do so.

(17.) It shall be an unlawful practice for any person to commit any act forbidden by this Ordinance for any reason that would not have been asserted, wholly or partially, but for the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of any person.

(18.) It shall be an unlawful practice for any person to aid, abet, incite, compel, coerce, or conspire to the commission of any of the acts forbidden by this Ordinance or to attempt to do so.

- (19.) It shall be an unlawful practice for any person to discharge, expel, evict, harass, retaliate in any manner or otherwise take action against any person because such person has opposed any act forbidden by this Ordinance or because such person has filed a complaint, testified, or assisted in any proceeding under this Ordinance.
- B. The Commission shall work cooperatively with federal, state, and city agencies, including, but not limited to the School Department and the Massachusetts Commission Against Discrimination, in developing materials, workshops, public presentations, and other educational resources designed to eliminate prejudice, intolerance, bigotry, and discrimination and to enlist the cooperation of the various racial, religious, and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations and other groups to further the intent and purposes of this Ordinance.
- C. The function of the Commission shall be to implement the policy of this Ordinance by receiving and investigating complaints of discrimination, initiating its own investigations of discrimination, mediating complaints, holding hearings, and presenting findings to the City Manager and/or government agencies such as the Massachusetts Commission Against Discrimination or the courts.

The Commission shall exercise its authority through the following powers and duties:

- (1.) To receive and investigate complaints and to initiate its own investigations of violations of this Ordinance.
- (2.) To transmit for filing with other government agencies copies of any and all complaints filed with the Commission, or which the Commission is otherwise aware, that relate to acts of discrimination under the jurisdiction of such agencies.
- (3.) To attempt by mediation to resolve any discrimination complaint over which it has jurisdiction and to recommend to all appropriate government agencies such action as it feels will resolve any such complaint and, if deemed expedient, to hold hearings, summons witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any relevant evidence. The power to summons witnesses as herein defined shall be limited to those powers and procedures set forth in Chapter 233, Section 8 of the Massachusetts General Laws. At any hearing before the Commission, or any committee thereof, a witness shall have the right to be advised and represented by counsel present during any such hearing.
- (4.) With respect to complaints not resolved by mediation, to file a complaint or report of its findings and recommendations with any court or government agency having jurisdiction over the matter in question; to seek or apply remedies as enumerated in Section 8D below; and in all cases urging and using its best efforts to bring about compliance with its recommendations.

- (5.) To seek or accept grants, gifts, or bequests to help finance its activities.
- D. (1.) Any person or class of persons claiming to be aggrieved by an alleged violation of this Ordinance may make, sign, and file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed such violation and the particulars and other such information as may be required by the Commission. The Commission may also on its own motion issue a complaint, whenever it has reason to believe that any person has engaged in an unlawful practice in violation of this Ordinance.

No complaint shall be considered unless it is filed within one hundred eighty (180) days after the occurrence of the alleged unlawful practice, or unless it has been referred to the Commission by the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission after having been timely filed with either or both agencies.

The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar the complainant from seeking relief by means of a civil action filed in the Cambridge District Court, or the district court for the judicial district in which the respondent resides, or any other court of competent jurisdiction.

Nor shall finding or failing to file a complaint with other federal, state, or city agencies or courts bar the complainant from seeking relief through the Commission.

- (2.) After the filing of any complaint, the Chairperson of the Commission shall designate the Executive Director or one or more of the Commissioners to oversee a prompt investigation thereof with the assistance of the staff of the Commission.

If such Commissioner(s) determine after such investigation that no probable cause exists for crediting the allegations of the complaint, they shall promptly file a report of such findings with the Commission, which shall determine whether or not to dismiss the complaint. The Commission shall, within ten days from such determination, notify the complainant in writing of such determination.

If such Commissioner(s) determine after such investigations that probable cause does exist for crediting the allegations of the complaint or if the Commission so determines, notwithstanding a negative report from such Commissioner(s), the Commission shall forthwith endeavor by conference, conciliation, and persuasion to eliminate the unlawful practice. The Commission and its staff shall not disclose what has occurred in the course of such endeavors except to disclose the terms of conciliation when the complaint has been disposed of in this manner.

- (3.) In the case of failure to eliminate an alleged unlawful practice by the process of mediation or after ninety (90) days have passed from commencement of mediation, or if probable cause exists that a conciliation agreement has been violated, the Commission shall issue and serve in its

name a written notice, together with a copy of the complaint, requiring the person named in the complaint (hereinafter called "the respondent") to answer the charges of the complaint at a hearing of the Commission at a reasonable time and place specified in such notice. The respondent may file a written verified answer to the complaint and appear at such hearing in person, with or without counsel, and submit testimony. The Commission may designate a staff member to present evidence on behalf of the complainant or may permit the complainant to do so himself or herself or by counsel. The Commission shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and recorded, and shall be transcribed at the request of any party.

- (4.) If, upon all the evidence, the Commission shall find that a respondent has not engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to said respondent.

If, upon all the evidence, the Commission shall find that a respondent has engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall forthwith seek relief through one or more of the following actions:

- a. File a criminal complaint against the respondent in the Cambridge District Court or in the district court for the judicial district in which the respondent resides, seeking fines of up to Three Hundred (\$300), or the maximum under State law, for each such violation.
- b. Levy a fine on its own motion of up to Three Hundred Dollars (\$300), or the maximum under State law, for each such violation.
- c. File a complaint against the respondent in Superior Court seeking injunctive relief, including a temporary restraining order; or
- d. File a complaint against the respondent in a court of appropriate jurisdiction seeking the award to the complainant of damages, expenses, punitive damages, and other relief, as appropriate.

The Commission may be represented in court by the City Solicitor or by its own attorneys.

9. A. Any practice that by design or effect discriminates against individuals, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is of public concern, as such discrimination creates strife, hostility and unrest, threatens or impairs the rights and privileges of individuals and deprives individuals of the benefits of a free and open society. Discrimination that deprives individuals of equal opportunities is unjust and results in serious injury to the public safety, health, and welfare of this City.

Accordingly, it is the policy of the City of Cambridge to safeguard the equal opportunities of all individuals in the City in accordance with their abilities, regardless of their race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income and to prevent discrimination against such individuals in the provision of city services and in employment, housing and real estate, education, credit, bonding, insurance, and public accommodations.

Further, it is the policy of the City to encourage harmony and mutual respect among its inhabitants and visitors and to reduce tensions and strife caused by discrimination.

- B. The provisions of this Ordinance shall be construed liberally for the accomplishment of the purposes hereof, and any ordinances or portions thereof inconsistent with any provisions hereof shall not apply.

This Ordinance shall be deemed an exercise of the police power of the City of Cambridge for the protection of the public safety, health, prosperity, and welfare.

- C. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by the laws of the federal government or of this Commonwealth.

Nothing in this Ordinance shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the Commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this Ordinance.

Any remedies provided by this Ordinance shall be cumulative with any other remedies provided by local, state, or federal law.

- D. Should any Section, provision, paragraph, sentence, or word of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the portion so declared to be invalid.

- E. As used in this Ordinance,

(1.) The term "age" shall mean the actual or supposed chronological age of an individual eighteen (18) years or older.

(2.) The term "bona fide occupational qualification" shall mean a valid consideration of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income that is a requirement for employment and has been certified as such by the Cambridge Human Rights Commission (herein referred to as "the Commission") or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws.

- (3.) The term "disability" shall mean any actual or supposed physical or mental handicap of an individual, other than the state of being presently legally incompetent.
- (4.) The term "discrimination" shall mean a policy or practice that by design or effect segregates, creates unequal status, separates, or has a disproportionate impact on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.
- (5.) The term "educational facility" shall mean any person, whether organized for profit or not-for-profit, that hold itself out to the public as providing instruction in the arts, sciences, trades, or any other area of learning.
- (6.) The term "family status" shall mean the actual or supposed condition of having minor children living with the individual or not.
- (7.) The term "real estate transaction" shall mean any intercourse among any persons that involves a building, structure or portion thereof, or parcel of land, developed or undeveloped, whether privately owned or owned by a public agency, including the design, construction, alteration, repair, sale, lease, sublease, mortgage, rental, or other provision, term, or offer of the same.
- (8.) The term "labor organization" shall mean any association, regardless of its form of organization, or employees or persons involved in similar trades or industries for the purpose of collective bargaining, resolving grievances in the terms and conditions of employment, or any other mutual aid or protection.
- (9.) The term "marital status" shall mean the actual or supposed state of being or having been married, separated, or divorced, or not.
- (10.) The term "military status" shall mean the actual or supposed condition of being or having been in the service of the military, or not.
- (11.) The term "public accommodation" shall mean any place or site, business or other establishment, or medium of communication, whether owned privately or by a public agency, that is intended for the patronage or use or convenience, whether for a charge or fee or not, of the general public, including but not limited to, inns, hotels, motels, roadhouses, trailer parks, campsites, any place where food or beverage is sold, retail stores, shopping malls, dispensaries, clinics, hospitals, rest homes, nursing homes, hospices, physicians' offices or other medical facilities, rest rooms, bathhouses, parks, public grounds, gardens, theaters, lecture halls, newspapers and magazines and other publications, barber shops, beauty parlors, motion picture houses, music halls, bowling alleys, amusement parks and arcades, skating rinks, ballparks, billiard and pool parlors, recreation parks, fairs, golf courses, gymnasiums, health clubs, shooting galleries, art galleries, libraries, laundries,

garages, all public conveyances whether owned privately or by a public agency, transportation terminals and stations, public portions of buildings accommodating the public, clubs, societies, and social associations that are public or quasi-public, banks, finance companies, insurance companies, streets, and parking lots.

Nothing contained herein shall be construed to include or apply to any place of accommodation that is by its nature distinctly private, provided that where public use is permitted that use shall be covered by this section and further provided, that an establishment that has membership requirements but otherwise qualifies as a public accommodation shall be deemed a public accommodation for the purpose of this Ordinance if its membership requirements: i) consist only of the payment of fees or dues; ii) consist of requirements under which a substantial portion of the residents of or visitors to this city could qualify; or iii) consist primarily of a discrimination or exclusion based upon race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

- (12.) The term "religious creed" shall mean the actual or supposed faith, belief, or moral philosophy of an individual or the lack thereof.
- (13.) The term "sexual orientation" shall mean actual or supposed heterosexuality, homosexuality, or bisexuality.
- (14.) The term "source of income" shall mean the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents, excluding the use of criminal activities as a means of support.



RECEIVED BY
CITY CLERK

CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

Alice K. Wolf
City Councillor

SEP 14 1984
September 14, 1984

The Honorable; the City Council:

I hereby transmit the following technical changes recommended by Councillor David Sullivan on the Human Rights Ordinance which we feel should be amended before passage to be ordained. They make no substitute changes in the ordinance as it stands.

Page 2 Section 4C last paragraph add after City Solicitor
"or by its own attorneys."

Page 3 8A
Move "presence ... engender" up 2 lines after complaints to read:

The Commission shall receive and investigate complaints of presence in the City of prejudice, intolerance, or bigotry, including but not limited to such matters as the choice of lifestyle and the consequences such attitudes in the community engender, and initiate its own investigation of the following activities and unlawful practices:

Page 3 8 A
Move to become 8E on Page 11

Renumber 8 A (3) - 8 A (19) to become 8 A (1) - 8 A (17)

Page 10 8 D 1 - Paragraph 3

Delete by "means ... jurisdiction" and substitute "in any other administrative or judicial forum."

Page 11 First paragraph - Line 11

delete "of law or equity" add "the" before courts to read
"in the courts."

Page 11 (4) b.

Paragraph to read "Levy a civil fine of up to Three Hundred Dollars
(\$300) for each such violation."

Page 11 Add 8 E (See above)

Page 13 (13) change bisexuality to "bisexuality".

Your kind attention to these changes are appreciated.

Sincerely,

Alice K. Wolf
City Councillor

AKW/smc



City of Cambridge

In the Year One Thousand, Nine Hundred 84

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge.

Be it ordained by the City Council of the City of Cambridge as follows:

Inasmuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E Charter.

There shall be a Commission known as the Cambridge Human Rights Commission to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter 25 entitled "Human Rights" which reads as follows:

CHAPTER 25

HUMAN RIGHTS



- D. The Commission of Human Rights shall work with the City Manager and/or his assistants on matters pertaining to the human rights of Cambridge citizens. The main purpose for which this ordinance is enacted is to protect the human rights of all the citizens of Cambridge.
4. The Commission shall discuss human rights problem areas with the City Manager and make recommendations necessary to protect the human rights of all Cambridge citizens and employees.
 - A. The Commission shall request of the City Manager, department heads, and Superintendent of Schools, such information and staff support as is reasonable so that it may be properly informed.
 - B. The Commission may review and comment on all matters pertaining to the human rights of citizens. They may examine and scrutinize and comment on department budgets including the School Department budget.
 - C. The Commission shall, with the advice and consent of the City Manager, employ an Executive Director who shall be the executive officer of the Commission and shall be responsible for carrying out the policies and decisions of the Commission. The Commission may employ an Administrative Assistant or such other personnel as it may from time to time deem necessary.

The Commission shall, when appropriate, request the assistance of the staff and Commissions of the City engaged in related work, such as the Commission on the Status of Women, the Civic Unity Committee, the Commission on the Handicapped, the Fair Housing Office, the Affirmative Action Officer, the Consumers' Council, the Council on Aging, and the Veterans' Service Department, and shall at all times work cooperatively with these groups.

The Commission shall receive aid, advice, and opinions from the City Solicitor and the legal department, and be represented in court by the City Solicitor or by its own attorneys.

- D. The City Manager shall provide office space in City Hall to the Commission in order to give easy access to citizen complaints.
 - E. Each year, the Commission and the City Manager, together or separately, shall report to the City Council in writing as to the progress that is being made under this ordinance. These written reports may properly contain suggestions and recommendations which will further the aims of this ordinance.
5. The Commission may at any time question matters pertaining to Cambridge bona-fide residents who are faculty members and/or students of local schools and universities who are involved in Human Rights complaints.
 6. Any contract entered into by the City or the Cambridge Schools, or any of their agencies, departments, or subdivisions shall contain a covenant by the contractor and his or her subcontractors not to violate this Ordinance. Breach of this covenant shall be regarded as a material breach of the contract.

This Section shall not impair the obligation of any presently existing contract.

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1. There shall be a Cambridge Human Rights Commission consisting of eleven members, which may be altered by an amendment to this ordinance by the City Council

The Commission shall be considered a Department of the City, with all the rights and responsibilities thereof. The Executive Director of the Commission shall be considered the department head.

2. The members shall be appointed by the City Manager for terms of three years. Initial appointments shall be for the following terms: three members for a term of three years, four members for a period of two years, and four members for a period of one year. Any vacancy occurring other than by expiration of term shall be filled by appointment by the City Manager for the unexpired term.
3. A. Not less than two months prior to making such appointments, or re-appointments, the City Manager shall solicit nominations from as many public service groups and other sources which he deems appropriate as possible.

In keeping with the policy of the Cambridge City Council, the members of the Commission shall be representative of the population of the City of Cambridge. The Commission shall contain members of groups traditionally targets of discriminatory behavior.

- B. All members of the Commission shall be residents of the City of Cambridge when appointments are being made by the City Manager, and throughout their tenure.
- C. The Commission shall elect a chairperson from among its members. The chairperson shall be elected at the first meeting each year. The Commission members shall make an attempt to rotate the election of a chairperson each year thereafter.

Six (6) members shall constitute a quorum for the purpose of conducting the business of the Commission and all decisions shall be by majority vote of the Commission members present and voting.

The Commission shall adopt rules and regulations consistent with this Ordinance and the Law of the Commonwealth of Massachusetts to carry out the policy and provisions of this Ordinance and the powers and duties of the Commission in connection therewith. Said rules shall insure the due process rights of all persons involved in investigations and hearings.

All records of the Commission shall be public except as provided by state law.

Members of the Commission shall serve without compensation but reasonable per diem and necessary expense reimbursement shall be paid out of the budget of the Commission.

The Commissioners shall be classified as special municipal employees for the purposes of Chapter 268A of the Massachusetts General Laws.

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The City of Cambridge, every City contractor and subcontractor, every employer with one hundred (100) or more employees, every owner of an apartment building or housing complex of fifteen (15) or more units, every employment agency, every realtor and real estate agency, and every apartment or roommate service shall prominently post and keep posted the following notice at its place of business or in such apartment building or housing complex:

"Discrimination on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is unlawful in the City of Cambridge. Chapter 25, Cambridge City Code.

Cambridge Human Rights Commission

Cambridge, MA

The blanks in the model above shall be properly filled with the address and telephone number of the offices of the Commission.

It shall be a crime punishable by a fine of not more than fifty dollars (\$50) per violation to willfully violate this Section.

8A. The Commission shall receive and investigate complaints of presence in the City of prejudice, intolerance, or bigotry, including but not limited to such matters as the choice of lifestyle and the consequences such attitudes in the community engender, and initiate its own investigation of the following activities and unlawful practices:

- (1) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to discriminate against any person in the provision of services, facilities, employment, housing or real estate transactions, education, or other opportunities because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such persons.
- (2) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to commit any act prohibited in this Ordinance which would be unlawful if committed by a private person.
- (3) It shall be an unlawful practice to deny any person or group equal access to city services in employment, housing, education, recreation, or other areas where such denial is based on limited English language skills.

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- (4.) It shall be an unlawful practice for an employer directly or indirectly to refuse to hire or employ or to bar or to discharge from employment, training, or apprenticeship or to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment, training, or apprenticeship, because of the race, color, sex, age, religious creed, physical handicap, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification. An employer who asserts that a discriminatory practice is justified because of a bona fide occupational qualification that has not been certified as such by the Commission or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws, shall have the burden of showing i) that the discrimination is in fact a necessary result of a bona fide occupational qualification, and ii) that there exists no less discriminatory means of satisfying the occupational qualifications.

Reasonable accomodation shall be made to enable the employment or continued employment of a disabled person unless the employer can demonstrate that the extent of the accomodation required to meet the limitations of the person would impose an undue hardship or safety hazard to the employer's business.

The following practices shall be exempt from the operation of this Section:

- a. Employment practices of an employer of fewer than six (6) persons.
- b. Employment of an individual by his or her parent, child, or spouse.
- c. Employment by a religious institution of individuals performing a service related to a bona fide religious purpose.
- d. Employment of an individual for work within the home of the employer.
- e. Employment of an individual for the rendering of services to the person of the employer or his or her family.

The following practices shall not be deemed unlawful:

- f. Employment programs designed to effect affirmative action by giving special preference to women, racial minorities, or veterans provided that such employment programs shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- g. Employment limited to the elderly or disabled, provided that such employment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

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- h. Observance by an employer of the conditions of a bona fide employee benefits system or plan (including, but not limited to, a contractual seniority system), provided that no such system or plan shall provide an excuse for failure to hire any individual.
- (5.) It shall be an unlawful practice for any employment agency directly or indirectly to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual. An employment agency that specializes in the recruitment and placement of elderly or disabled employees shall be exempt from the operation of this Section with respect to such specialized services, provided that such services shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- (6.) It shall be an unlawful practice for a labor organization directly or indirectly to refuse to admit to membership, training, apprenticeship, or classification or to otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual.
- (7.) It shall be an unlawful practice for an employer, employment agency, or labor organization directly or indirectly to advertise or otherwise publicize that any individual is unwelcome or not employable because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification or one of the exceptions set forth in Sections 8A(6), 8A(7), or 8A(8).
- (8.) It shall be an unlawful practice for any person directly or indirectly to refuse to engage in a real estate transaction with any person or to set discriminatory terms or conditions with respect to a real estate transaction with any person or to advertise or otherwise publicize that any person is unwelcome or may not enter into a real estate transaction because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person or of a person residing with such person.

This section does not create an affirmative duty to remove barriers for the disabled in excess of the requirements of existing laws and ordinances, but reasonable accommodation shall be made to enable the provision of housing for a handicapped person.

The following practices shall be exempt from the operation of this Section:

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- a. The leasing or renting of a room or rooms within a dwelling or apartment which is occupied by the lessor as his or her residence and in which the roomer or boarder must pass through the space or a portion thereof occupied by such lessor in order to gain access to the room or rooms thus let or rented.
- b. The leasing or renting of a single apartment in a two-family dwelling, the other residential unit of which is occupied by the lessor as his or her residence.
- c. The leasing, rental, or other provision with or without fee or space within a church, temple, synagogue, religious school, or other facility used primarily for religious purposes.

The following practices shall not be deemed unlawful:

- d. The establishment of government-sponsored housing programs operated either directly by government agencies or indirectly through government subsidization and regulation, which programs are designed to assist the elderly, disabled, or economically disadvantaged individuals, provided that such programs shall not discriminate among the elderly, disabled, or economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - e. The establishment of housing set aside for or limited to the elderly or the disabled, provided that such establishment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - f. The establishment of same-sex dormitories or portions thereof by educational facilities, provided that such establishment shall not discriminate on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - g. The establishment of a hospital, convent, monastery, shelter, asylum, or residential facility for the care and lodging of persons in need of special medical, rehabilitative, social, or psychological support, including but not limited to half-way houses, drug treatment centers, detoxification facilities, shelters for the homeless, and the like.
- (9.) It shall be an unlawful practice for any bank, financial institution, or any other credit-granting or -approving institution or person, including a retail store that sells goods or services on credit, directly or indirectly to discriminate in the granting, reporting, approval, or extension of any form of loan or credit to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person. It shall not be an unlawful practice under this Section to establish or review the creditworthiness of any person by seeking information relevant to such creditworthiness as amount and source of income, age, employment history, credit references, and the number and age of dependents.

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- (10.) It shall be an unlawful practice for any insurance company, insurance agent, or person engaged in the service of providing insurance to refuse to insure any person or discriminate in the terms of insuring any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, unless based on a bona fide actuarially determined insurance factor, such as the age or health of the person, that affects the risk for which insurance is being sought.

In accordance with Federal court cases, it is the intention of this section that actuarial data be gender-neutral.

- (11.) It shall be an unlawful practice for any bonding institution or person engaged in the service of providing financial and performance bonds to refuse to bond any person or discriminate in the terms of bonding because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.
- (12.) It shall be an unlawful practice for any educational facility directly or indirectly to fail or refuse to admit, or to curtail or terminate admission to, or to discriminate in the terms or conditions of educational services, programs, opportunities, or curriculum offered by it to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The establishment by an educational facility of minimum or maximum age requirements for any educational program, provided that such establishment shall not discriminate among the potential students on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- b. The selection of students by a religious educational facility that is limited exclusively or gives preference to members of such religion, provided that such selection shall not discriminate among the members of such religion on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- c. The maintenance or establishment by an education facility of a school or program limited to members of only one sex or otherwise segregated by sex, provided that such facility shall not discriminate among the members of such sex on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- d. Educational programs or policies designed to effect affirmative action by giving special preference to women, racial minorities, or veterans, provided that such programs or policies shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

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- e. The establishment by an educational facility of special programs designed to assist or provide special training for the disabled, the elderly, individuals not fluent in English, or the economically disadvantaged. Provided that such selection shall not discriminate among the disabled, elderly, individuals not fluent in English, or the economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

(13.) It shall be an unlawful practice for any person directly or indirectly to withhold, deny, curtail, or in any manner limit the full use of a public accomodation by any person, or discriminate against such person with respect to the use of such accommodation, because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

It shall be an unlawful practice for any person directly or indirectly to advertise or otherwise publicize that any person is unwelcome to the full use of any public accommodation because of the race, color, disability, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The designation of a public accomodation for the exclusive or preferential use of the elderly or the disabled.
- b. The designation of a restroom or of a privately-owned athletic or exercise facility for the exclusive or preferential use of members of a single sex.
- c. The advertisement of a public accomodation as being for the preferential use of persons of a particular sex, age, religious creed, national origin or ancestry, sexual orientation, marital status, family status, or military status, provided such preference is not advertised as or implied to be a requirement for entry or use of such public accommodation.

(14.) It shall be an unlawful practice for any person to harass, intimidate, threaten, assault, or otherwise discriminate against any person in or upon any public accommodation because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, or attempt to do so.

(15.) It shall be an unlawful practice for any person to commit any act forbidden by this Ordinance for any reason that would not have been asserted, wholly or partially, but for the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of any person.

(16.) It shall be an unlawful practice for any person to aid, abet, incite, compel, coerce, or conspire to the commission of any of the acts forbidden by this Ordinance or to attempt to do so.

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- (17.) It shall be an unlawful practice for any person to discharge, expel, evict, harass, retaliate in any manner or otherwise take action against any person because such person has opposed any act forbidden by this Ordinance or because such person has filed a complaint, testified, or assisted in any proceeding under this Ordinance.
- B. The Commission shall work cooperatively with federal, state, and city agencies, including, but not limited to the School Department and the Massachusetts Commission Against Discrimination, in developing materials, workshops, public presentations, and other educational resources designed to eliminate prejudice, intolerance, bigotry, and discrimination and to enlist the cooperation of the various racial, religious, and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations and other groups to further the intent and purposes of this Ordinance.
- C. The function of the Commission shall be to implement the policy of this Ordinance by receiving and investigating complaints of discrimination, initiating its own investigations of discrimination, mediating complaints, holding hearings, and presenting findings to the City Manager and/or government agencies such as the Massachusetts Commission Against Discrimination or the courts.

The Commission shall exercise its authority through the following powers and duties:

- (1.) To receive and investigate complaints and to initiate its own investigations of violations of this Ordinance.
- (2.) To transmit for filing with other government agencies copies of any and all complaints filed with the Commission, or which the Commission is otherwise aware, that relate to acts of discrimination under the jurisdiction of such agencies.
- (3.) To attempt by mediation to resolve any discrimination complaint over which it has jurisdiction and to recommend to all appropriate government agencies such action as it feels will resolve any such complaint and, if deemed expedient, to hold hearings, summons, witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any relevant evidence. The power to summons witnesses as herein defined shall be limited to those powers and procedures set forth in Chapter 233, Section 8 of the Massachusetts General Laws. At any hearing before the Commission, or any committee thereof, a witness shall have the right to be advised and represented by counsel present during any such hearing.
- (4.) With respect to complaints not resolved by mediation, to file a complaint or report of its findings and recommendations with any court or government agency having jurisdiction over the matter in question; to seek or apply remedies as enumerated in Section 8D below; and in all cases urging and using its best efforts to bring about compliance with its recommendations.

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(5.) To seek or accept grants, gifts, or bequests to help finance its activities.

D. (1.) Any person or class of persons claiming to be aggrieved by an alleged violation of this Ordinance may make, sign, and file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed such violation and the particulars and other such information as may be required by the Commission. The Commission may also on its own motion issue a complaint, whenever it has reason to believe that any person has engaged in an unlawful practice in violation of this Ordinance.

No complaint shall be considered unless it is filed within one hundred eighty (180) days after the occurrence of the alleged unlawful practice, or unless it has been referred to the Commission by the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission after having been timely filed with either or both agencies.

The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar the complainant from seeking relief in any other administrative or judicial forum.

Nor shall filing or failing to file a complaint with other federal, state, or city agencies or courts bar the complainant from seeking relief through the Commission.

(2.) After the filing of any complaint, the Chairperson of the Commission shall designate the Executive Director or one or more of the Commissioners to oversee a prompt investigation thereof with the assistance of the staff of the Commission.

If such Commissioner(s) determine after such investigation that no probable cause exists for crediting the allegations of the complaint, they shall promptly file a report of such findings with the Commission, which shall determine whether or not to dismiss the complaint. The Commission shall, within ten days from such determination, notify the complainant in writing of such determination.

If such Commissioner(s) determine after such investigations that probable cause does exist for crediting the allegations of the complaint or if the Commission so determines, notwithstanding a negative report from such Commissioner(s), the Commission shall forthwith endeavor by conference, conciliation, and persuasion to eliminate the unlawful practice. The Commission and its staff shall not disclose what has occurred in the course of such endeavors except to disclose the terms of conciliation when the complaint has been disposed of in this manner.

(3.) In the case of failure to eliminate an alleged unlawful practice by the process of mediation or after ninety (90) days have passed from commencement of mediation, or if probable cause exists that a conciliation agreement has been violated, the Commission shall issue and serve in its

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name a written notice, together with a copy of the complaint, requiring the person named in the complaint (hereinafter called "the respondent") to answer the charges of the complaint at a hearing of the Commission at a reasonable time and place specified in such notice. The respondent may file a written verified answer to the complaint and appear at such hearing in person, with or without counsel, and submit testimony. The Commission may designate a staff member to present evidence on behalf of the complainant or may permit the complainant to do so himself or herself or by counsel. The Commission shall not be bound by the strict rules of evidence prevailing in the courts. The testimony taken at the hearing shall be under oath and recorded, and shall be transcribed at the request of any party.

- (4.) If, upon all the evidence, the Commission shall find that a respondent has not engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to said respondent.

If, upon all the evidence, the Commission shall find that a respondent has engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall forthwith seek relief through one or more of the following actions:

- a. File a criminal complaint against the respondent in the Cambridge District Court or in the district court for the judicial district in which the respondent resides, seeking fines of up to Three Hundred Dollars (\$300), or the maximum under State law, for each such violation.
- b. Levy a civil fine of up to Three Hundred Dollars (\$300) for each such violation.
- c. File a complaint against the respondent in Superior Court seeking injunctive relief, including a temporary restraining order; or
- d. File a complaint against the respondent in a court of appropriate jurisdiction seeking the award to the complainant of damages, expenses, punitive damages, and other relief, as appropriate.

The Commission may be represented in court by the City Solicitor or by its own attorneys.

- e. It shall be a crime punishable by a fine of not more than Three Hundred Dollars (\$300), or the maximum under State Law, per violation to commit any unlawful practice under this section 8.
- 9A. Any practice that by design or effect discriminates against individuals, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is of public concern, as such discrimination creates strife, hostility and unrest, threatens or impairs the rights and privileges of individuals and deprives individuals of the benefits of a free and open society. Discrimination that deprives individuals of equal opportunities is unjust and results in serious injury to the public safety, health, and welfare of this City.

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Accordingly, it is the policy of the City of Cambridge to safeguard the equal opportunities of all individuals in the City in accordance with their abilities, regardless of their race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income and to prevent discrimination against such individuals in the provision of city services and in employment, housing and real estate, education, credit, bonding, insurance, and public accommodations.

Further, it is the policy of the City to encourage harmony and mutual respect among its inhabitants and visitors and to reduce tensions and strife caused by discrimination.

- B. The provisions of this Ordinance shall be construed liberally for the accomplishment of the purposes hereof, and any ordinances or portions thereof inconsistent with any provisions hereof shall not apply.

This Ordinance shall be deemed an exercise of the police power of the City of Cambridge for the protection of the public safety, health, prosperity, and welfare.

- C. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by the laws of the federal government or of this Commonwealth.

Nothing in this Ordinance shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the Commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this Ordinance.

Any remedies provided by this Ordinance shall be cumulative with any other remedies provided by local, state, or federal law.

- D. Should any Section, provision, paragraph, sentence, or word of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the portion so declared to be invalid.
- E. As used in this Ordinance,
- (1.) The term "age" shall mean the actual or supposed chronological age of an individual eighteen (18) years or older.
 - (2.) The term "bona fide occupational qualification" shall mean a valid consideration of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income that is a requirement for employment and has been certified as such by the Cambridge Human Rights Commission (herein referred to as "the Commission") or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws.

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- (3.) The term "disability" shall mean any actual or supposed physical or mental handicap of an individual, other than the state of being presently legally incompetent.
- (4.) The term "discrimination" shall mean a policy or practice that by design or effect segregates, creates unequal status, separates, or has a disproportionate impact on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.
- (5.) The term "educational facility" shall mean any person, whether organized for profit or not-for-profit, that hold itself out to the public as providing instruction in the arts, sciences, trades, or any other area of learning.
- (6.) The term "family status" shall mean the actual or supposed condition of having minor children living with the individual or not.
- (7.) The term "real estate transaction" shall mean any intercourse among any persons that involves a building, structure or portion thereof, or parcel of land, developed or undeveloped, whether privately owned or owned by a public agency, including the design, construction, alteration, repair, sale, lease, sublease, mortgage, rental, or other provision, term, or offer of the same.
- (8.) The term "labor organization" shall mean any association, regardless of its form of organization, or employees or persons involved in similar trades or industries for the purpose of collective bargaining, resolving grievances in the terms and conditions of employment, or any other mutual aid or protection.
- (9.) The term "marital status" shall mean the actual or supposed state of being or having been married, separated, or divorced, or not.
- (10.) The term "military status" shall mean the actual or supposed condition of being or having been in the service of the military, or not.
- (11.) The term "public accommodation" shall mean any place or site, business or other establishment, or medium of communication, whether owned privately or by a public agency, that is intended for the patronage or use or convenience, whether for a charge or fee or not, of the general public, including but not limited to, inns, hotels, motels, roadhouses, trailer parks, campsites, any place where food or beverage is sold, retail stores, shopping malls, dispensaries, clinics, hospitals, rest homes, nursing homes, hospices, physicians' offices or other medical facilities, rest rooms, bathhouses, parks, public grounds, gardens, theaters, lecture halls, newspapers and magazines and other publications, barber shops, beauty parlors, motion picture houses, music halls, bowling alleys, amusement parks and arcades, skating rinks, ballparks, billiard and pool parlors, recreation parks, fairs, golf courses, gymnasiums, health clubs, shooting galleries, art galleries, libraries, laundries,

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garages, all public conveyances whether owned privately or by a public agency, transportation terminals and stations, public portions of buildings accommodating the public, clubs, societies, and social associations that are public or quasi-public, banks, finance companies, insurance companies, streets, and parking lots.

Nothing contained herein shall be construed to include or apply to any place of accommodation that is by its nature distinctly private, provided that where public use is permitted that use shall be covered by this section and further provided, that an establishment that has membership requirements but otherwise qualifies as a public accommodation shall be deemed a public accommodation for the purpose of this Ordinance if its membership requirements: i) consist only of the payment of fees or dues; ii) consist of requirements under which a substantial portion of the residents of or visitors to this city could qualify; or iii) consist primarily of a discrimination or exclusion based upon race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

- (12.) The term "religious creed" shall mean the actual or supposed faith, belief, or moral philosophy of an individual or the lack thereof.
- (13.) The term "sexual orientation" shall mean actual or supposed heterosexuality, homosexuality, or bisexuality.
- (14.) The term "source of income" shall mean the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents, excluding the use of criminal activities as a means of support.

In City Council September 24, 1984.

Passed to be ordained as amended by a yea and nay vote:-
Yeas 6; Nays 3; Absent 0.

Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.

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CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

OFFICE OF
THE CITY CLERK

August 21, 1984

Russell B. Higley, Esquire
City Solicitor
City Hall
Cambridge, MA

Dear Sir:

Enclosed you will find the following:

1. Proposed loan order passed to a second reading at the City Council meeting of August 15, 1984.
2. Proposed amendment to the General Ordinances of the City of Cambridge by adding at the end thereof a new Chapter Twenty-Five entitled "Human Rights" which was passed to a second reading at the City Council meeting of August 15, 1984.
3. Proposed amendment to the Zoning Ordinances of the City of Cambridge on the petition of Ann Haycox, et al which was passed to be ordained at the City Council meeting of August 15, 1984.
4. An order adopted by the City Council together with a proposed amendment to the General Ordinances of the City of Cambridge in Chapter Twenty-Three entitled "Regulations Pertaining to Controlled Rental Housing Units" which was passed to be ordained as amended at the City Council meeting of August 15, 1984.

Would you kindly review these proposed amendments and indicate your approval or disapproval on the bottom and return to this office.

Russell B. Higley

- 2 -

August 21, 1984

Your kind attention in this matter will be greatly appreciated.

Very truly yours,

Paul E. Healy, City Clerk.

PEH/d1

- Encs. First publication no. 2254
First publication no. 2256 ✓
Ordinance no. 1013 - *Revised*
Order for communication no. 42
Ordinance no. 1014
- c.c. Councillor David Sullivan, Chairman,
Committee on Ordinances.



City of Cambridge

IN CITY COUNCIL

August 15, 1984

ORDERED:

That the Order adopted on March 28, 1983 appropriating the sum of \$3,438,700 for acquisition of land and construction of municipal outdoor recreational facilities as part of the Lechmere Canal Park Phase II project and the Front Park project be and hereby is amended to read as follows:

ORDERED:

That \$4,463,700 is appropriated for acquisition of land and construction of municipal outdoor recreational facilities as part of the Lechmere Canal Park Phase II project and the Front Park project; that to raise this appropriation the Treasurer with the approval of the City Manager is authorized to borrow \$4,463,700 under General Laws, Chapter 44, Section 7(25); and that the City Manager is authorized to contract for and expend any federal or state aid available for the projects.

Passed to a second reading at the City Council meeting held on August 15, 1984 and on or after September 3, 1984 the question comes on adoption.

ATTEST:- Paul E. Healy, City Clerk.



City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Four

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Insomuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E. Charter.

There shall be a Commission known as the "Cambridge Human Rights Commission" to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council.

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter Twenty-Five entitled "Human Rights".

Passed to a second reading at the City Council meeting held on August 15, 1984 and on or after September 3, 1984 the question comes on passing to be ordained.

ATTEST:- Paul E. Healy, City Clerk.

NOTE: Pursuant to the provisions of General Laws, Chapter 43, Section 23, Tercentenary Edition, being a part of the City Charter, the Ordinances as aforesaid, which exceed in length eight octavo pages of ordinary book print may be examined at the office of the City Council in the form of a printed pamphlet during office hours on or after August 20, 1984.

Paul E. Healy, City Clerk.



City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Four

AN ORDINANCE

In amendment to an ordinance entitled "The Zoning Ordinances of the City of Cambridge".

Be it ordained by the City Council of the City of Cambridge as follows:

The Zone Map accompanying ordinance passed to be ordained September 26, 1979 entitled "The Zoning Ordinances of the City of Cambridge" is hereby amended as follows:

1. Add a new definition "Art/Craft Studio" to Article 2.000 as follows:

"Art/Craft Studio." A room or group of rooms used by artists and craftspeople in the creation of their work, including: painting, photography, sculpture, ceramics and other related arts and crafts.

2. Insert a new use category to Section 4.35: "q. Art/Craft Studio" as follows:

	Open Space	Res. A 1&2	Res. B	Res. C 1,2,2A, 3, 3A	Off. 1, 2,3,3A	Bus. A-1	Bus. A
q. Art/Craft Studio.	n	n	n	sp ⁵⁰	sp ⁵⁰	Y	Y
	Bus. B B-1, B-2	Bus. C	Ind. A-2	Ind A-1,	Ind A	Ind. B-1, B-2	Ind. C
	Y	Y	Y	Y	Y	Y	Y

3. Add a new footnote to section 4.40 as follows;

"50. Subject to the requirements of Section 4.28."

4. Create a new Section 4.28 Art/Craft Studio, as follows;

"4.23 Art/Craft Studio.

The purpose of this Section 4.28 is to ensure that art/craft studios locating in Residence C and Office Districts will be compatible with other permitted uses, particularly in residential neighborhoods.

4.281 The Board of Zoning Appeal may grant a special permit for the location of an art/craft studio or group of studios in Residence C and Office Districts provided that the following requirements are satisfied;

A. Residence C. Districts:

1. The studio shall be located in a principal use non-residential building in existence as of May 1, 1984. Structures or buildings accessory to residential uses shall not be so used.
2. The required amount of parking in Article 6.000 may be reduced only if the Board determines that lesser amount of parking will not cause excessive congestion, endanger public safety, substantially reduce parking availability for other uses or otherwise adversely impact the neighborhood.

B. Residence C and Office Districts:

1. The studio will be principally used as a studio for independent artists and craftspeople in the creation of their own work. Mass-production and assembly line techniques are prohibited.
2. The type of studio use shall be appropriate to the particular building and its location;
 - a. the building shall be structurally sound.
 - b. the proposed studio use will not generate traffic in volume or type in excess of that normally occurring in the adjacent neighborhood.
 - c. no bulk storage of toxic or highly flammable materials shall occur.
 - d. the proposed studio use shall satisfy all applicable building, fire safety, and health codes.
 - e. noise shall be restricted to levels customarily permitted in the district as regulated in General Ordinance #887 "Regulations for the Control of Noise", or as customarily produced by other permitted uses in the district, whichever is less.
 - f. noxious odors, dust, and/or fumes shall be effectively disposed of and confined to the premises to avoid air pollution and nuisance to the adjacent neighborhood.
3. All activity must be carried out within the building, including the storage of materials.
4. No more than three (3) persons shall practice or be employed at one time per studio.
5. There shall be no retail sales except as may occur as an activity incidental to exhibition permitted in B (6) below;
6. Public exhibitions shall not be permitted except as specifically authorized in the special permit. The number and duration of any such exhibitions shall be specifically stated, shall be for arts/crafts created on the premises, and shall only be permitted upon finding that the residential or other prevailing neighborhood character will not be significantly, negatively affected.

4.282 In issuing a special permit under this Section 4.28 the Board Of Zoning Appeal shall state the specific arts and craft uses or range of uses being authorized for each studio granted a permit.

4.283 Nothing in this Section 4.28 shall prohibit the establishment of residential uses, permitted in the district, subsequent to the

issuance of a special permit under this section 4.28. The establishment of residential uses shall not alter the principal use non-residential status of the building for the purpose of continuing or future authorizations for art/craft studios under the provisions of this Section 4.28.

- 5. Insert the following category, "q. Art/Craft Studio" to Section 6.365 as follows:

q. Art/Craft Studio

(13)	Open Space	Res. C-1	Bus. C (res)
	Res.A-1,A-2	Off-1,Bus A	Ind A-1, Ind C
	Res. B	(comm), Bus A-1	

na 1/1000sf

Bus.C (comm)	Res C-2A,	Ind B-1,Res	Bus B,Ind A-2,	Loading
Ind A,Off.-2,	Ind B-2,	C-3,C03A,	Ind B,Bus B-1,	Facility
Res. C-2	Bus A (res)	Off 3A, 3	B-2	Category

1/1000sf

1/1000sf

- 6. Add a new footnote 13 to Section 6.35, as follows:

"13. In Residence C. Districts the amount of parking required for this use may be reduced at the discretion of the Board of Zoning Appeal in accordance with Section 4.28."

In City Council August 15, 1984.

Passed to be ordained by a yea and nay vote:-

Yeas 6; Nays 0; Absent 1; Present 2.

ATTEST:- Paul E. Healy, City Clerk.

Robert W. Healy, City Manager.



City of Cambridge

Communication # 42

IN CITY COUNCIL

August 15, 1984

COUNCILLOR D. SULLIVAN

RESOLVED: That it is the intent of this City Council that the Ordinance for Full Occupancy be administered and construed as follows:

1. All complaints under this ordinance shall be submitted to the Rent Control Board by affidavit or on a form to be devised by the Rent Control Board and signed under the pains and penalties of perjury.
2. An owner may make a showing of compliance for a habitable unit by providing evidence either:
 - a. that he/she has rented the unit in good faith and that a bona fide tenant lives in the unit. A bona fide tenancy may be established by some combination of a lease, proof of payment of rent or other consideration, the length of tenancy, and the presence of the tenant's personal belongings and furnishings in the unit. Special consideration shall be given to units to be occupied by immediate family members of the owner of an owner-occupied house; or
 - b. that he/she has offered the unit for rent in good faith throughout the one hundred twenty (120) day period, but has been unable to rent the unit.
3. An owner may make a showing of good cause for a unit found to be unfit for human habitation by the Inspectional Services Department by providing evidence either:

- a. that he/she is making the repairs required for habitability and is pursuing completion of those repairs with due diligence; or
 - b. that he/she is unable to make the repairs required for habitability in a timely fashion because the necessary approvals or financing has not yet been received from public agencies. In this case the one hundred twenty (120) day period required to establish vacancy may be extended up to an additional six (6) months at the discretion of the Rent Control Board, provided that applications for such approvals and/or financing have been filed in a timely manner.
4. At any point in proceedings before the Rent Control Board, an owner may make a showing under 2 (a) above that a bona fide tenant has been accepted and is currently occupying the unit; and be it further

RESOLVED:

That a copy of this resolution be delivered to the Rent Control Board.

In City Council August 15, 1984.

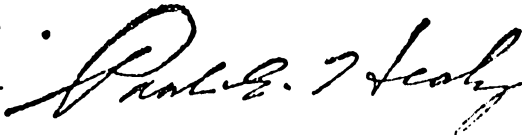
Adopted by a yea and nay vote:-

Yeas 5; Nays 0; Absent 3; Present 1.

Attest:- Paul E. Healy, City Clerk.

A true copy;

ATTEST:-





City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Four

AN ORDINANCE

PROPOSED AMENDMENT TO CHAPTER TWENTY-THREE, SECTION 1, OF THE CODE OF THE CITY OF CAMBRIDGE.

(Ordinance Number 966, as amended by Ordinance Number 980)

Be it ordained by the City Council of the City of Cambridge as follows:

SECTION 1. REMOVAL OF CONTROLLED RENTAL UNITS FROM MARKET of Chapter Twenty-Three, entitled "Regulations Pertaining to Controlled Rental Units" in Ordinance Number 966 of June 29, 1981 is hereby amended as follows:

1. Add the following clause to Paragraph (4) of Subsection (b), Definitions:

"(v) cause a unit, not the primary residence of a legal unit owner, to be vacant for one hundred twenty (120) days or more by refusing to rent or to offer for rent said unit in good faith or, when a unit is cited as unfit for human habitation, by failure to perform repairs required to restore said unit to habitable condition. The existence of a vacancy for one hundred twenty (120) days or more, without a showing of good cause, shall constitute removal from the market."

2. Add the following sentences at the end of Subsection (c), REMOVAL REGULATED:

"One year after the date of a notice of ruling, the Board shall review and confirm that the circumstances and conditions which led the Board to grant any removal permit hereunder, except for a condominium unit legally occupied by the unit owner, continue to warrant said permit. If, after a hearing, the Board finds that the circumstances and conditions no longer warrant the permit, the Board shall immediately treat the unit as a controlled rental unit and shall initiate whatever action is permitted and appropriate under this section."

3. Add the following sentences to Subsection (f) PENALTY:

"Where, after a hearing, the Board finds there are repeated and/or flagrant violations of this section, the Board shall recommend to the Cambridge City Council or to the Cambridge

Housing Authority that the public interest can best be served by taking the unit(s) by power of eminent domain in order to restore the unit(s) to service as housing for people with low and moderate incomes."

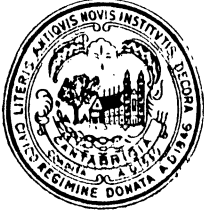
The effective date of the amendments outlined above shall be October 1, 1984.

In City Council August 15, 1984.

Passed to be ordained as amended by a yea and nay vote:-
Yeas 5; Nays 2; Absent 1; Present 1.

ATTEST:- Paul E. Healy, City Clerk.

Robert W. Healy, City Manager.



City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Four

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Insomuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E. Charter.

There shall be a Commission known as the "Cambridge Human Rights Commission" to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council.

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter Twenty-Five entitled "Human Rights".

Passed to a second reading at the City Council meeting held on August 15, 1984 and on or after September 3, 1984 the question comes on passing to be ordained.

ATTEST:- Paul E. Healy, City Clerk.

NOTE: Pursuant to the provisions of General Laws, Chapter 43, Section 23, Tercentenary Edition, being a part of the City Charter, the Ordinances as aforesaid, which exceed in length eight octavo pages of ordinary book print may be examined at the office of the City Council in the form of a printed pamphlet during office hours on or after August 20, 1984.

Paul E. Healy, City Clerk.

Business # 2

City of Cambridge

MASSACHUSETTS

In City Council

9/24 1984

As Amended 6-3-1

	YEA	NAY	ABSENT	PRESENT
	6	3	0	0
Mr. Daniel J. Clinton		1/✓		
Mr. Thomas W. Danehy		3/2 ✓ ←	2 ✓	
Mr. Francis H. Duehay	1 ✓			
Ms. Sandra Graham	4 ✓			
Mr. David E. Sullivan	3 ✓			
Mr. Walter J. Sullivan		3 ✓ 2 ✓	4 ✓	
Mr. Alfred Vellucci	4 ✓	2 ✓ ←		1 ✓
Ms. Alice K. Wolf	5 ✓			
Mayor Russell	6 ✓			

6 3 0 0

Passed & be ordered

VILLAGE BOUNDARY #2

1055
MOTION TO
ADJOURN
FORCED

City of Cambridge

MASSACHUSETTS

In City Council

9/24/1984

	YEA	NAY	ABSENT	PRESENT
Mr. Daniel J. Clinton	✓			
Mr. Thomas W. Danehy	✓			
Mr. Francis H. Duehay				✓
Ms. Sandra Graham		✓		
Mr. David E. Sullivan		✓		
Mr. Walter J. Sullivan	✓			
Mr. Alfred Vellucci		✓		
Ms. Alice K. Wolf		✓		
Mayor Russell	✓			

4 4 0 1



City of Cambridge

In the Year One Thousand, Nine Hundred 84

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge.

Be it ordained by the City Council of the City of Cambridge as follows:

Inasmuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E Charter.

There shall be a Commission known as the Cambridge Human Rights Commission to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter 25 entitled "Human Rights" which reads as follows:

CHAPTER 25

HUMAN RIGHTS

1. There shall be a Cambridge Human Rights Commission consisting of eleven members, which may be altered by an amendment to this ordinance by the City Council

The Commission shall be considered a Department of the City, with all the rights and responsibilities thereof. The Executive Director of the Commission shall be considered the department head.

2. The members shall be appointed by the City Manager for terms of three years. Initial appointments shall be for the following terms: three members for a term of three years, four members for a period of two years, and four members for a period of one year. Any vacancy occurring other than by expiration of term shall be filled by appointment by the City Manager for the unexpired term.
3. A. Not less than two months prior to making such appointments, or re-appointments, the City Manager shall solicit nominations from as many public service groups and other sources which he deems appropriate as possible.

In keeping with the policy of the Cambridge City Council, the members of the Commission shall be representative of the population of the City of Cambridge. The Commission shall contain members of groups traditionally targets of discriminatory behavior.

- B. All members of the Commission shall be residents of the City of Cambridge when appointments are being made by the City Manager, and throughout their tenure.
- C. The Commission shall elect a chairperson from among its members. The chairperson shall be elected at the first meeting each year. The Commission members shall make an attempt to rotate the election of a chairperson each year thereafter.

Six (6) members shall constitute a quorum for the purpose of conducting the business of the Commission and all decisions shall be by majority vote of the Commission members present and voting.

The Commission shall adopt rules and regulations consistent with this Ordinance and the Law of the Commonwealth of Massachusetts to carry out the policy and provisions of this Ordinance and the powers and duties of the Commission in connection therewith. Said rules shall insure the due process rights of all persons involved in investigations and hearings.

All records of the Commission shall be public except as provided by state law.

Members of the Commission shall serve without compensation but reasonable per diem and necessary expense reimbursement shall be paid out of the budget of the Commission.

The Commissioners shall be classified as special municipal employees for the purposes of Chapter 268A of the Massachusetts General Laws.

3

- D. The Commission of Human Rights shall work with the City Manager and/or his assistants on matters pertaining to the human rights of Cambridge citizens. The main purpose for which this ordinance is enacted is to protect the human rights of all the citizens of Cambridge.
- 4. The Commission shall discuss human rights problem areas with the City Manager and make recommendations necessary to protect the human rights of all Cambridge citizens and employees.
 - A. The Commission shall request of the City Manager, department heads, and Superintendent of Schools, such information and staff support as is reasonable so that it may be properly informed.
 - B. The Commission may review and comment on all matters pertaining to the human rights of citizens. They may examine and scrutinize and comment on department budgets including the School Department budget.
 - C. The Commission shall, with the advice and consent of the City Manager, employ an Executive Director who shall be the executive officer of the Commission and shall be responsible for carrying out the policies and decisions of the Commission. The Commission may employ an Administrative Assistant or such other personnel as it may from time to time deem necessary.

The Commission shall, when appropriate, request the assistance of the staff and Commissions of the City engaged in related work, such as the Commission on the Status of Women, the Civic Unity Committee, the Commission on the Handicapped, the Fair Housing Office, the Affirmative Action Officer, the Consumers' Council, the Council on Aging, and the Veterans' Service Department, and shall at all times work cooperatively with these groups.

The Commission shall receive aid, advice, and opinions from the City Solicitor and the legal department, and be represented in court by the City Solicitor or ~~by~~ its own attorneys.

①

- D. The City Manager shall provide office space in City Hall to the Commission in order to give easy access to citizen complaints.
- E. Each year, the Commission and the City Manager, together or separately, shall report to the City Council in writing as to the progress that is being made under this ordinance. These written reports may properly contain suggestions and recommendations which will further the aims of this ordinance.
- 5. The Commission may at any time question matters pertaining to Cambridge bona-fide residents who are faculty members and/or students of local schools and universities who are involved in Human Rights complaints.
- 6. Any contract entered into by the City or the Cambridge Schools, or any of their agencies, departments, or subdivisions shall contain a covenant by the contractor and his or her subcontractors not to violate this Ordinance. Breach of this covenant shall be regarded as a material breach of the contract.

This Section shall not impair the obligation of any presently existing contract.

7.
The City of Cambridge, every City contractor and subcontractor, every employer with one hundred (100) or more employees, every owner of an apartment building or housing complex of fifteen (15) or more units, every employment agency, every realtor and real estate agency, and every apartment or roommate service shall prominently post and keep posted the following notice at its place of business or in such apartment building or housing complex:

"Discrimination on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is unlawful in the City of Cambridge. Chapter 25, Cambridge City Code.

Cambridge Human Rights Commission
Cambridge, MA
" "

The blanks in the model above shall be properly filled with the address and telephone number of the offices of the Commission.

It shall be a crime punishable by a fine of not more than fifty dollars (\$50) per violation to willfully violate this Section.

2
8A →
The Commission shall receive and investigate complaints of presence in the City of prejudice, intolerance, or bigotry, including but not limited to such matters as the choice of lifestyle and the consequences such attitudes in the community engender, and initiate its own investigation of the following activities and unlawful practices:

It shall be a crime punishable by a fine of not more than three hundred dollars (\$300), or the maximum under State Law, per violation to commit any unlawful practice under this section 8.

- (1) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to discriminate against any person in the provision of services, facilities, employment, housing or real estate transactions, education, or other opportunities because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such persons.
- (2) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to commit any act prohibited in this Ordinance which would be unlawful if committed by a private person.
- (3) It shall be an unlawful practice to deny any person or group equal access to city services in employment, housing, education, recreation, or other areas where such denial is based on limited English language skills.

- (4.) It shall be an unlawful practice for an employer directly or indirectly to refuse to hire or employ or to bar or to discharge from employment, training, or apprenticeship or to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment, training, or apprenticeship, because of the race, color, sex, age, religious creed, physical handicap, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification. An employer who asserts that a discriminatory practice is justified because of a bona fide occupational qualification that has not been certified as such by the Commission or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws, shall have the burden of showing i) that the discrimination is in fact a necessary result of a bona fide occupational qualification, and ii) that there exists no less discriminatory means of satisfying the occupational qualifications.

Reasonable accomodation shall be made to enable the employment or continued employment of a disabled person unless the employer can demonstrate that the extent of the accomodation required to meet the limitations of the person would impose an undue hardship or safety hazard to the employer's business.

The following practices shall be exempt from the operation of this Section:

- a. Employment practices of an employer of fewer than six (6) persons.
- b. Employment of an individual by his or her parent, child, or spouse.
- c. Employment by a religious institution of individuals performing a service related to a bona fide religious purpose.
- d. Employment of an individual for work within the home of the employer.
- e. Employment of an individual for the rendering of services to the person of the employer or his or her family.

The following practices shall not be deemed unlawful:

- f. Employment programs designed to effect affirmative action by giving special preference to women, racial minorities, or veterans provided that such employment programs shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- g. Employment limited to the elderly or disabled, provided that such employment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

- h. Observance by an employer of the conditions of a bona fide employee benefits system or plan (including, but not limited to, a contractual seniority system), provided that no such system or plan shall provide an excuse for failure to hire any individual.
- (5.) It shall be an unlawful practice for any employment agency directly or indirectly to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual. An employment agency that specializes in the recruitment and placement of elderly or disabled employees shall be exempt from the operation of this Section with respect to such specialized services, provided that such services shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- (6.) It shall be an unlawful practice for a labor organization directly or indirectly to refuse to admit to membership, training, apprenticeship, or classification or to otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual.
- (7.) It shall be an unlawful practice for an employer, employment agency, or labor organization directly or indirectly to advertise or otherwise publicize that any individual is unwelcome or not employable because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification or one of the exceptions set forth in Sections 8A(6), 8A(7), or 8A(8).
- (8.) It shall be an unlawful practice for any person directly or indirectly to refuse to engage in a real estate transaction with any person or to set discriminatory terms or conditions with respect to a real estate transaction with any person or to advertise or otherwise publicize that any person is unwelcome or may not enter into a real estate transaction because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person or of a person residing with such person.

This section does not create an affirmative duty to remove barriers for the disabled in excess of the requirements of existing laws and ordinances, but reasonable accommodation shall be made to enable the provision of housing for a handicapped person.

The following practices shall be exempt from the operation of this Section:

- a. The leasing or renting of a room or rooms within a dwelling or apartment which is occupied by the lessor as his or her residence and in which the roomer or boarder must pass through the space or a portion thereof occupied by such lessor in order to gain access to the room or rooms thus let or rented.
- b. The leasing or renting of a single apartment in a two-family dwelling, the other residential unit of which is occupied by the lessor as his or her residence.
- c. The leasing, rental, or other provision with or without fee or space within a church, temple, synagogue, religious school, or other facility used primarily for religious purposes.

The following practices shall not be deemed unlawful:

- d. The establishment of government-sponsored housing programs operated either directly by government agencies or indirectly through government subsidization and regulation, which programs are designed to assist the elderly, disabled, or economically disadvantaged individuals, provided that such programs shall not discriminate among the elderly, disabled, or economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - e. The establishment of housing set aside for or limited to the elderly or the disabled, provided that such establishment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - f. The establishment of same-sex dormitories or portions thereof by educational facilities, provided that such establishment shall not discriminate on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - g. The establishment of a hospital, convent, monastery, shelter, asylum, or residential facility for the care and lodging of persons in need of special medical, rehabilitative, social, or psychological support, including but not limited to half-way houses, drug treatment centers, detoxification facilities, shelters for the homeless, and the like.
- (9.) It shall be an unlawful practice for any bank, financial institution, or any other credit-granting or -approving institution or person, including a retail store that sells goods or services on credit, directly or indirectly to discriminate in the granting, reporting, approval, or extension of any form of loan or credit to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person. It shall not be an unlawful practice under this Section to establish or review the creditworthiness of any person by seeking information relevant to such creditworthiness as amount and source of income, age, employment history, credit references, and the number and age of dependents.

- (10.) It shall be an unlawful practice for any insurance company, insurance agent, or person engaged in the service of providing insurance to refuse to insure any person or discriminate in the terms of insuring any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, unless based on a bona fide actuarially determined insurance factor, such as the age or health of the person, that affects the risk for which insurance is being sought.

In accordance with Federal court cases, it is the intention of this section that actuarial data be gender-neutral.

- (11.) It shall be an unlawful practice for any bonding institution or person engaged in the service of providing financial and performance bonds to refuse to bond any person or discriminate in the terms of bonding because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.
- (12.) It shall be an unlawful practice for any educational facility directly or indirectly to fail or refuse to admit, or to curtail or terminate admission to, or to discriminate in the terms or conditions of educational services, programs, opportunities, or curriculum offered by it to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The establishment by an educational facility of minimum or maximum age requirements for any educational program, provided that such establishment shall not discriminate among the potential students on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- b. The selection of students by a religious educational facility that is limited exclusively or gives preference to members of such religion, provided that such selection shall not discriminate among the members of such religion on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- c. The maintenance or establishment by an education facility of a school or program limited to members of only one sex or otherwise segregated by sex, provided that such facility shall not discriminate among the members of such sex on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- d. Educational programs or policies designed to effect affirmative action by giving special preference to women, racial minorities, or veterans, provided that such programs or policies shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

- e. The establishment by an educational facility of special programs designed to assist or provide special training for the disabled, the elderly, individuals not fluent in English, or the economically disadvantaged. Provided that such selection shall not discriminate among the disabled, elderly, individuals not fluent in English, or the economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

- (13.) It shall be an unlawful practice for any person directly or indirectly to withhold, deny, curtail, or in any manner limit the full use of a public accomodation by any person, or discriminate against such person with respect to the use of such accommodation, because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

It shall be an unlawful practice for any person directly or indirectly to advertise or otherwise publicize that any person is unwelcome to the full use of any public accommodation because of the race, color, disability, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The designation of a public accomodation for the exclusive or preferential use of the elderly or the disabled.
 - b. The designation of a restroom or of a privately-owned athletic or exercise facility for the exclusive or preferential use of members of a single sex.
 - c. The advertisement of a public accomodation as being for the preferential use of persons of a particular sex, age, religious creed, national origin or ancestry, sexual orientation, marital status, family status, or military status, provided such preference is not advertised as or implied to be a requirement for entry or use of such public accommodation.
- (14.) It shall be an unlawful practice for any person to harass, intimidate, threaten, assault, or otherwise discriminate against any person in or upon any public accommodation because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, or attempt to do so.
 - (15.) It shall be an unlawful practice for any person to commit any act forbidden by this Ordinance for any reason that would not have been asserted, wholly or partially, but for the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of any person.
 - (16.) It shall be an unlawful practice for any person to aid, abet, incite, compel, coërce, or conspire to the commission of any of the acts forbidden by this Ordinance or to attempt to do so.

- (17.) It shall be an unlawful practice for any person to discharge, expel, evict, harass, retaliate in any manner or otherwise take action against any person because such person has opposed any act forbidden by this Ordinance or because such person has filed a complaint, testified, or assisted in any proceeding under this Ordinance.
- B. The Commission shall work cooperatively with federal, state, and city agencies, including, but not limited to the School Department and the Massachusetts Commission Against Discrimination, in developing materials, workshops, public presentations, and other educational resources designed to eliminate prejudice, intolerance, bigotry, and discrimination and to enlist the cooperation of the various racial, religious, and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations and other groups to further the intent and purposes of this Ordinance.
- C. The function of the Commission shall be to implement the policy of this Ordinance by receiving and investigating complaints of discrimination, initiating its own investigations of discrimination, mediating complaints, holding hearings, and presenting findings to the City Manager and/or government agencies such as the Massachusetts Commission Against Discrimination or the courts.

The Commission shall exercise its authority through the following powers and duties:

- (1.) To receive and investigate complaints and to initiate its own investigations of violations of this Ordinance.
- (2.) To transmit for filing with other government agencies copies of any and all complaints filed with the Commission, or which the Commission is otherwise aware, that relate to acts of discrimination under the jurisdiction of such agencies.
- (3.) To attempt by mediation to resolve any discrimination complaint over which it has jurisdiction and to recommend to all appropriate government agencies such action as it feels will resolve any such complaint and, if deemed expedient, to hold hearings, summons witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any relevant evidence. The power to summons witnesses as herein defined shall be limited to those powers and procedures set forth in Chapter 233, Section 8 of the Massachusetts General Laws. At any hearing before the Commission, or any committee thereof, a witness shall have the right to be advised and represented by counsel present during any such hearing.
- (4.) With respect to complaints not resolved by mediation, to file a complaint or report of its findings and recommendations with any court or government agency having jurisdiction over the matter in question; to seek or apply remedies as enumerated in Section 8D below; and in all cases urging and using its best efforts to bring about compliance with its recommendations.

(5.) To seek or accept grants, gifts, or bequests to help finance its activities.

D. (1.) Any person or class of persons claiming to be aggrieved by an alleged violation of this Ordinance may make, sign, and file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed such violation and the particulars and other such information as may be required by the Commission. The Commission may also on its own motion issue a complaint, whenever it has reason to believe that any person has engaged in an unlawful practice in violation of this Ordinance.

No complaint shall be considered unless it is filed within one hundred eighty (180) days after the occurrence of the alleged unlawful practice, or unless it has been referred to the Commission by the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission after having been timely filed with either or both agencies.

The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar the complainant from seeking relief in any other administrative or judicial forum.

Nor shall filing or failing to file a complaint with other federal, state, or city agencies or courts bar the complainant from seeking relief through the Commission.

(2.) After the filing of any complaint, the Chairperson of the Commission shall designate the Executive Director or one or more of the Commissioners to oversee a prompt investigation thereof with the assistance of the staff of the Commission.

If such Commissioner(s) determine after such investigation that no probable cause exists for crediting the allegations of the complaint, they shall promptly file a report of such findings with the Commission, which shall determine whether or not to dismiss the complaint. The Commission shall, within ten days from such determination, notify the complainant in writing of such determination.

If such Commissioner(s) determine after such investigations that probable cause does exist for crediting the allegations of the complaint or if the Commission so determines, notwithstanding a negative report from such Commissioner(s), the Commission shall forthwith endeavor by conference, conciliation, and persuasion to eliminate the unlawful practice. The Commission and its staff shall not disclose what has occurred in the course of such endeavors except to disclose the terms of conciliation when the complaint has been disposed of in this manner.

(3.) In the case of failure to eliminate an alleged unlawful practice by the process of mediation or after ninety (90) days have passed from commencement of mediation, or if probable cause exists that a conciliation agreement has been violated, the Commission shall issue and serve in its

name a written notice, together with a copy of the complaint, requiring the person named in the complaint (hereinafter called "the respondent") to answer the charges of the complaint at a hearing of the Commission at a reasonable time and place specified in such notice. The respondent may file a written verified answer to the complaint and appear at such hearing in person, with or without counsel, and submit testimony. The Commission may designate a staff member to present evidence on behalf of the complainant or may permit the complainant to do so himself or herself or by counsel. The Commission shall not be bound by the strict rules of evidence prevailing in the courts. The testimony taken at the hearing shall be under oath and recorded, and shall be transcribed at the request of any party.

- (4.) If, upon all the evidence, the Commission shall find that a respondent has not engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to said respondent.

If, upon all the evidence, the Commission shall find that a respondent has engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall forthwith seek relief through one or more of the following actions:

- a. File a criminal complaint against the respondent in the Cambridge District Court or in the district court for the judicial district in which the respondent resides, seeking fines of up to Three Hundred Dollars (\$300), or the maximum under State law, for each such violation.
- b. Levy a civil fine of up to Three Hundred Dollars (\$300) for each such violation.
- c. File a complaint against the respondent in Superior Court seeking injunctive relief, including a temporary restraining order; or
- d. File a complaint against the respondent in a court of appropriate jurisdiction seeking the award to the complainant of damages, expenses, punitive damages, and other relief, as appropriate.

The Commission may be represented in court by the City Solicitor or by its own attorneys.

- e. The Commission shall receive and investigate complaints of and initiate its own investigation of the following activities and unlawful practices:

③ → *Prohibit Discrimination - That from Part 3*

9. A. Any practice that by design or effect discriminates against individuals, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is of public concern, as such discrimination creates strife, hostility and unrest, threatens or impairs the rights and privileges of individuals and deprives individuals of the benefits of a free and open society. Discrimination that deprives individuals of equal opportunities is unjust and results in serious injury to the public safety, health, and welfare of this City.

Accordingly, it is the policy of the City of Cambridge to safeguard the equal opportunities of all individuals in the City in accordance with their abilities, regardless of their race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income and to prevent discrimination against such individuals in the provision of city services and in employment, housing and real estate, education, credit, bonding, insurance, and public accommodations.

Further, it is the policy of the City to encourage harmony and mutual respect among its inhabitants and visitors and to reduce tensions and strife caused by discrimination.

- B. The provisions of this Ordinance shall be construed liberally for the accomplishment of the purposes hereof, and any ordinances or portions thereof inconsistent with any provisions hereof shall not apply.

This Ordinance shall be deemed an exercise of the police power of the City of Cambridge for the protection of the public safety, health, prosperity, and welfare.

- C. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by the laws of the federal government or of this Commonwealth.

Nothing in this Ordinance shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the Commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this Ordinance.

Any remedies provided by this Ordinance shall be cumulative with any other remedies provided by local, state, or federal law.

- D. Should any Section, provision, paragraph, sentence, or word of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the portion so declared to be invalid.
- E. As used in this Ordinance,
- (1.) The term "age" shall mean the actual or supposed chronological age of an individual eighteen (18) years or older.
 - (2.) The term "bona fide occupational qualification" shall mean a valid consideration of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income that is a requirement for employment and has been certified as such by the Cambridge Human Rights Commission (herein referred to as "the Commission") or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws.

- (3.) The term "disability" shall mean any actual or supposed physical or mental handicap of an individual, other than the state of being presently legally incompetent.
- (4.) The term "discrimination" shall mean a policy or practice that by design or effect segregates, creates unequal status, separates, or has a disproportionate impact on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.
- (5.) The term "educational facility" shall mean any person, whether organized for profit or not-for-profit, that hold itself out to the public as providing instruction in the arts, sciences, trades, or any other area of learning.
- (6.) The term "family status" shall mean the actual or supposed condition of having minor children living with the individual or not.
- (7.) The term "real estate transaction" shall mean any intercourse among any persons that involves a building, structure or portion thereof, or parcel of land, developed or undeveloped, whether privately owned or owned by a public agency, including the design, construction, alteration, repair, sale, lease, sublease, mortgage, rental, or other provision, term, or offer of the same.
- (8.) The term "labor organization" shall mean any association, regardless of its form of organization, or employees or persons involved in similar trades or industries for the purpose of collective bargaining, resolving grievances in the terms and conditions of employment, or any other mutual aid or protection.
- (9.) The term "marital status" shall mean the actual or supposed state of being or having been married, separated, or divorced, or not.
- (10.) The term "military status" shall mean the actual or supposed condition of being or having been in the service of the military, or not.
- (11.) The term "public accommodation" shall mean any place or site, business or other establishment, or medium of communication, whether owned privately or by a public agency, that is intended for the patronage or use or convenience, whether for a charge or fee or not, of the general public, including but not limited to, inns, hotels, motels, roadhouses, trailer parks, campsites, any place where food or beverage is sold, retail stores, shopping malls, dispensaries, clinics, hospitals, rest homes, nursing homes, hospices, physicians' offices or other medical facilities, rest rooms, bathhouses, parks, public grounds, gardens, theaters, lecture halls, newspapers and magazines and other publications, barber shops, beauty parlors, motion picture houses, music halls, bowling alleys, amusement parks and arcades, skating rinks, ballparks, billiard and pool parlors, recreation parks, fairs, golf courses, gymnasiums, health clubs, shooting galleries, art galleries, libraries, laundries,

garages, all public conveyances whether owned privately or by a public agency, transportation terminals and stations, public portions of buildings accommodating the public, clubs, societies, and social associations that are public or quasi-public, banks, finance companies, insurance companies, streets, and parking lots.

Nothing contained herein shall be construed to include or apply to any place of accommodation that is by its nature distinctly private, provided that where public use is permitted that use shall be covered by this section and further provided, that an establishment that has membership requirements but otherwise qualifies as a public accommodation shall be deemed a public accommodation for the purpose of this Ordinance if its membership requirements: i) consist only of the payment of fees or dues; ii) consist of requirements under which a substantial portion of the residents of or visitors to this city could qualify; or iii) consist primarily of a discrimination or exclusion based upon race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

- (12.) The term "religious creed" shall mean the actual or supposed faith, belief, or moral philosophy of an individual or the lack thereof.
- (13.) The term "sexual orientation" shall mean actual or supposed heterosexuality, homosexuality, or bisexuality.
- (14.) The term "source of income" shall mean the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents, excluding the use of criminal activities as a means of support.

In City Council September 24, 1984.

Passed to be ordained as amended by a yeas and nays vote:-
Yeas 6; Nays 3; Absent 0.

Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

OFFICE OF
THE CITY CLERK

September 26, 1984

Russell B. Higley, Esquire
City Solicitor
City Hall
Cambridge, MA

Dear Sir:

Enclosed you will find the full text of a proposed amendment to the General Ordinances of the City of Cambridge in Chapter Twenty-Five entitled "Human Rights" which was passed to be ordained as amended at the City Council meeting held on September 24, 1984.

Would you kindly review this amendment and indicate your approval or disapproval on the bottom and return to this office.

Your kind attention in this matter will be greatly appreciated.

Very truly yours,

Paul E. Healy, City Clerk.

PEH/dl

Enc. Ordinance Number 1016.

c.c. Councillor David Sullivan, Chairman, Committee on Ordinances
Mr. Cellucci, Inspectional Services Dept.



City of Cambridge

In the Year One Thousand, Nine Hundred 84

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge.

Be it ordained by the City Council of the City of Cambridge as follows:

Inasmuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E Charter.

There shall be a Commission known as the Cambridge Human Rights Commission to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter 25 entitled "Human Rights" which reads as follows:

CHAPTER 25

HUMAN RIGHTS

1. There shall be a Cambridge Human Rights Commission consisting of eleven members, which may be altered by an amendment to this ordinance by the City Council

The Commission shall be considered a Department of the City, with all the rights and responsibilities thereof. The Executive Director of the Commission shall be considered the department head.

2. The members shall be appointed by the City Manager for terms of three years. Initial appointments shall be for the following terms: three members for a term of three years, four members for a period of two years, and four members for a period of one year. Any vacancy occurring other than by expiration of term shall be filled by appointment by the City Manager for the unexpired term.
3. A. Not less than two months prior to making such appointments, or re-appointments, the City Manager shall solicit nominations from as many public service groups and other sources which he deems appropriate as possible.

In keeping with the policy of the Cambridge City Council, the members of the Commission shall be representative of the population of the City of Cambridge. The Commission shall contain members of groups traditionally targets of discriminatory behavior.

- B. All members of the Commission shall be residents of the City of Cambridge when appointments are being made by the City Manager, and throughout their tenure.
- C. The Commission shall elect a chairperson from among its members. The chairperson shall be elected at the first meeting each year. The Commission members shall make an attempt to rotate the election of a chairperson each year thereafter.

Six (6) members shall constitute a quorum for the purpose of conducting the business of the Commission and all decisions shall be by majority vote of the Commission members present and voting.

The Commission shall adopt rules and regulations consistent with this Ordinance and the Law of the Commonwealth of Massachusetts to carry out the policy and provisions of this Ordinance and the powers and duties of the Commission in connection therewith. Said rules shall insure the due process rights of all persons involved in investigations and hearings.

All records of the Commission shall be public except as provided by state law.

Members of the Commission shall serve without compensation but reasonable per diem and necessary expense reimbursement shall be paid out of the budget of the Commission.

The Commissioners shall be classified as special municipal employees for the purposes of Chapter 268A of the Massachusetts General Laws. 0

- D. The Commission of Human Rights shall work with the City Manager and/or his assistants on matters pertaining to the human rights of Cambridge citizens. The main purpose for which this ordinance is enacted is to protect the human rights of all the citizens of Cambridge.
4. The Commission shall discuss human rights problem areas with the City Manager and make recommendations necessary to protect the human rights of all Cambridge citizens and employees.
- A. The Commission shall request of the City Manager, department heads, and Superintendent of Schools, such information and staff support as is reasonable so that it may be properly informed.
 - B. The Commission may review and comment on all matters pertaining to the human rights of citizens. They may examine and scrutinize and comment on department budgets including the School Department budget.
 - C. The Commission shall, with the advice and consent of the City Manager, employ an Executive Director who shall be the executive officer of the Commission and shall be responsible for carrying out the policies and decisions of the Commission. The Commission may employ an Administrative Assistant or such other personnel as it may from time to time deem necessary.

The Commission shall, when appropriate, request the assistance of the staff and Commissions of the City engaged in related work, such as the Commission on the Status of Women, the Civic Unity Committee, the Commission on the Handicapped, the Fair Housing Office, the Affirmative Action Officer, the Consumers' Council, the Council on Aging, and the Veterans' Service Department, and shall at all times work cooperatively with these groups.

The Commission shall receive aid, advice, and opinions from the City Solicitor and the legal department, and be represented in court by the City Solicitor or but its own attorneys.

- D. The City Manager shall provide office space in City Hall to the Commission in order to give easy access to citizen complaints.
 - E. Each year, the Commission and the City Manager, together or separately, shall report to the City Council in writing as to the progress that is being made under this ordinance. These written reports may properly contain suggestions and recommendations which will further the aims of this ordinance.
5. The Commission may at any time question matters pertaining to Cambridge bona-fide residents who are faculty members and/or students of local schools and universities who are involved in Human Rights complaints.
6. Any contract entered into by the City or the Cambridge Schools, or any of their agencies, departments, or subdivisions shall contain a covenant by the contractor and his or her subcontractors not to violate this Ordinance. Breach of this covenant shall be regarded as a material breach of the contract.

This Section shall not impair the obligation of any presently existing contract.

The City of Cambridge, every City contractor and subcontractor, every employer with one hundred (100) or more employees, every owner of an apartment building or housing complex of fifteen (15) or more units, every employment agency, every realtor and real estate agency, and every apartment or roommate service shall prominently post and keep posted the following notice at its place of business or in such apartment building or housing complex:

"Discrimination on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is unlawful in the City of Cambridge. Chapter 25, Cambridge City Code.

Cambridge Human Rights Commission
Cambridge, MA

The blanks in the model above shall be properly filled with the address and telephone number of the offices of the Commission.

It shall be a crime punishable by a fine of not more than fifty dollars (\$50) per violation to willfully violate this Section.

The Commission shall receive and investigate complaints of presence in the City of prejudice, intolerance, or bigotry, including but not limited to such matters as the choice of lifestyle and the consequences such attitudes in the community engender, and initiate its own investigation of the following activities and unlawful practices:

- 8A. It shall be a crime punishable by a fine of not more than three hundred dollars (\$300), or the maximum under State Law, per violation to commit any unlawful practice under this section 8.
- (1) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to discriminate against any person in the provision of services, facilities, employment, housing or real estate transactions, education, or other opportunities because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such persons.
 - (2) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to commit any act prohibited in this Ordinance which would be unlawful if committed by a private person.
 - (3) It shall be an unlawful practice to deny any person or group equal access to city services in employment, housing, education, recreation, or other areas where such denial is based on limited English language skills.

- (4.) It shall be an unlawful practice for an employer directly or indirectly to refuse to hire or employ or to bar or to discharge from employment, training, or apprenticeship or to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment, training, or apprenticeship, because of the race, color, sex, age, religious creed, physical handicap, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification. An employer who asserts that a discriminatory practice is justified because of a bona fide occupational qualification that has not been certified as such by the Commission or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws, shall have the burden of showing i) that the discrimination is in fact a necessary result of a bona fide occupational qualification, and ii) that there exists no less discriminatory means of satisfying the occupational qualifications.

Reasonable accomodation shall be made to enable the employment or continued employment of a disabled person unless the employer can demonstrate that the extent of the accomodation required to meet the limitations of the person would impose an undue hardship or safety hazard to the employer's business.

The following practices shall be exempt from the operation of this Section:

- a. Employment practices of an employer of fewer than six (6) persons.
- b. Employment of an individual by his or her parent, child, or spouse.
- c. Employment by a religious institution of individuals performing a service related to a bona fide religious purpose.
- d. Employment of an individual for work within the home of the employer.
- e. Employment of an individual for the rendering of services to the person of the employer or his or her family.

The following practices shall not be deemed unlawful:

- f. Employment programs designed to effect affirmative action by giving special preference to women, racial minorities, or veterans provided that such employment programs shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- g. Employment limited to the elderly or disabled, provided that such employment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

- h. Observance by an employer of the conditions of a bona fide employee benefits system or plan (including, but not limited to, a contractual seniority system), provided that no such system or plan shall provide an excuse for failure to hire any individual.
- (5.) It shall be an unlawful practice for any employment agency directly or indirectly to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual. An employment agency that specializes in the recruitment and placement of elderly or disabled employees shall be exempt from the operation of this Section with respect to such specialized services, provided that such services shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- (6.) It shall be an unlawful practice for a labor organization directly or indirectly to refuse to admit to membership, training, apprenticeship, or classification or to otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual.
- (7.) It shall be an unlawful practice for an employer, employment agency, or labor organization directly or indirectly to advertise or otherwise publicize that any individual is unwelcome or not employable because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification or one of the exceptions set forth in Sections 8A(6), 8A(7), or 8A(8).
- (8.) It shall be an unlawful practice for any person directly or indirectly to refuse to engage in a real estate transaction with any person or to set discriminatory terms or conditions with respect to a real estate transaction with any person or to advertise or otherwise publicize that any person is unwelcome or may not enter into a real estate transaction because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person or of a person residing with such person.

This section does not create an affirmative duty to remove barriers for the disabled in excess of the requirements of existing laws and ordinances, but reasonable accommodation shall be made to enable the provision of housing for a handicapped person.

The following practices shall be exempt from the operation of this Section:

- a. The leasing or renting of a room or rooms within a dwelling or apartment which is occupied by the lessor as his or her residence and in which the roomer or boarder must pass through the space or a portion thereof occupied by such lessor in order to gain access to the room or rooms thus let or rented.
- b. The leasing or renting of a single apartment in a two-family dwelling, the other residential unit of which is occupied by the lessor as his or her residence.
- c. The leasing, rental, or other provision with or without fee or space within a church, temple, synagogue, religious school, or other facility used primarily for religious purposes.

The following practices shall not be deemed unlawful:

- d. The establishment of government-sponsored housing programs operated either directly by government agencies or indirectly through government subsidization and regulation, which programs are designed to assist the elderly, disabled, or economically disadvantaged individuals, provided that such programs shall not discriminate among the elderly, disabled, or economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - e. The establishment of housing set aside for or limited to the elderly or the disabled, provided that such establishment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - f. The establishment of same-sex dormitories or portions thereof by educational facilities, provided that such establishment shall not discriminate on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - g. The establishment of a hospital, convent, monastery, shelter, asylum, or residential facility for the care and lodging of persons in need of special medical, rehabilitative, social, or psychological support, including but not limited to half-way houses, drug treatment centers, detoxification facilities, shelters for the homeless, and the like.
- (9.) It shall be an unlawful practice for any bank, financial institution, or any other credit-granting or -approving institution or person, including a retail store that sells goods or services on credit, directly or indirectly to discriminate in the granting, reporting, approval, or extension of any form of loan or credit to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person. It shall not be an unlawful practice under this Section to establish or review the creditworthiness of any person by seeking information relevant to such creditworthiness as amount and source of income, age, employment history, credit references, and the number and age of dependents.
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- (10.) It shall be an unlawful practice for any insurance company, insurance agent, or person engaged in the service of providing insurance to refuse to insure any person or discriminate in the terms of insuring any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, unless based on a bona fide actuarially determined insurance factor, such as the age or health of the person, that affects the risk for which insurance is being sought.

In accordance with Federal court cases, it is the intention of this section that actuarial data be gender-neutral.

- (11.) It shall be an unlawful practice for any bonding institution or person engaged in the service of providing financial and performance bonds to refuse to bond any person or discriminate in the terms of bonding because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.
- (12.) It shall be an unlawful practice for any educational facility directly or indirectly to fail or refuse to admit, or to curtail or terminate admission to, or to discriminate in the terms or conditions of educational services, programs, opportunities, or curriculum offered by it to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The establishment by an educational facility of minimum or maximum age requirements for any educational program, provided that such establishment shall not discriminate among the potential students on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- b. The selection of students by a religious educational facility that is limited exclusively or gives preference to members of such religion, provided that such selection shall not discriminate among the members of such religion on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- c. The maintenance or establishment by an education facility of a school or program limited to members of only one sex or otherwise segregated by sex, provided that such facility shall not discriminate among the members of such sex on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- d. Educational programs or policies designed to effect affirmative action by giving special preference to women, racial minorities, or veterans, provided that such programs or policies shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

e. The establishment by an educational facility of special programs designed to assist or provide special training for the disabled, the elderly, individuals not fluent in English, or the economically disadvantaged. Provided that such selection shall not discriminate among the disabled, elderly, individuals not fluent in English, or the economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

(13.) It shall be an unlawful practice for any person directly or indirectly to withhold, deny, curtail, or in any manner limit the full use of a public accommodation by any person, or discriminate against such person with respect to the use of such accommodation, because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

It shall be an unlawful practice for any person directly or indirectly to advertise or otherwise publicize that any person is unwelcome to the full use of any public accommodation because of the race, color, disability, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The designation of a public accommodation for the exclusive or preferential use of the elderly or the disabled.
- b. The designation of a restroom or of a privately-owned athletic or exercise facility for the exclusive or preferential use of members of a single sex.
- c. The advertisement of a public accommodation as being for the preferential use of persons of a particular sex, age, religious creed, national origin or ancestry, sexual orientation, marital status, family status, or military status, provided such preference is not advertised as or implied to be a requirement for entry or use of such public accommodation.

(14.) It shall be an unlawful practice for any person to harass, intimidate, threaten, assault, or otherwise discriminate against any person in or upon any public accommodation because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, or attempt to do so.

(15.) It shall be an unlawful practice for any person to commit any act forbidden by this Ordinance for any reason that would not have been asserted, wholly or partially, but for the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of any person.

(16.) It shall be an unlawful practice for any person to aid, abet, incite, compel, coerce, or conspire to the commission of any of the acts forbidden by this Ordinance or to attempt to do so.

- (17.) It shall be an unlawful practice for any person to discharge, expel, evict, harass, retaliate in any manner or otherwise take action against any person because such person has opposed any act forbidden by this Ordinance or because such person has filed a complaint, testified, or assisted in any proceeding under this Ordinance.
- B. The Commission shall work cooperatively with federal, state, and city agencies, including, but not limited to the School Department and the Massachusetts Commission Against Discrimination, in developing materials, workshops, public presentations, and other educational resources designed to eliminate prejudice, intolerance, bigotry, and discrimination and to enlist the cooperation of the various racial, religious, and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations and other groups to further the intent and purposes of this Ordinance.
- C. The function of the Commission shall be to implement the policy of this Ordinance by receiving and investigating complaints of discrimination, initiating its own investigations of discrimination, mediating complaints, holding hearings, and presenting findings to the City Manager and/or government agencies such as the Massachusetts Commission Against Discrimination or the courts.

The Commission shall exercise its authority through the following powers and duties:

- (1.) To receive and investigate complaints and to initiate its own investigations of violations of this Ordinance.
- (2.) To transmit for filing with other government agencies copies of any and all complaints filed with the Commission, or which the Commission is otherwise aware, that relate to acts of discrimination under the jurisdiction of such agencies.
- (3.) To attempt by mediation to resolve any discrimination complaint over which it has jurisdiction and to recommend to all appropriate government agencies such action as it feels will resolve any such complaint and, if deemed expedient, to hold hearings, summons, witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any relevant evidence. The power to summons witnesses as herein defined shall be limited to those powers and procedures set forth in Chapter 233, Section 8 of the Massachusetts General Laws. At any hearing before the Commission, or any committee thereof, a witness shall have the right to be advised and represented by counsel present during any such hearing.
- (4.) With respect to complaints not resolved by mediation, to file a complaint or report of its findings and recommendations with any court or government agency having jurisdiction over the matter in question; to seek or apply remedies as enumerated in Section 8D below; and in all cases urging and using its best efforts to bring about compliance with its recommendations.

(5.) To seek or accept grants, gifts, or bequests to help finance its activities.

D. (1.) Any person or class of persons claiming to be aggrieved by an alleged violation of this Ordinance may make, sign, and file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed such violation and the particulars and other such information as may be required by the Commission. The Commission may also on its own motion issue a complaint, whenever it has reason to believe that any person has engaged in an unlawful practice in violation of this Ordinance.

No complaint shall be considered unless it is filed within one hundred eighty (180) days after the occurrence of the alleged unlawful practice, or unless it has been referred to the Commission by the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission after having been timely filed with either or both agencies.

The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar the complainant from seeking relief in any other administrative or judicial forum.

Nor shall filing or failing to file a complaint with other federal, state, or city agencies or courts bar the complainant from seeking relief through the Commission.

(2.) After the filing of any complaint, the Chairperson of the Commission shall designate the Executive Director or one or more of the Commissioners to oversee a prompt investigation thereof with the assistance of the staff of the Commission.

If such Commissioner(s) determine after such investigation that no probable cause exists for crediting the allegations of the complaint, they shall promptly file a report of such findings with the Commission, which shall determine whether or not to dismiss the complaint. The Commission shall, within ten days from such determination, notify the complainant in writing of such determination.

If such Commissioner(s) determine after such investigations that probable cause does exist for crediting the allegations of the complaint or if the Commission so determines, notwithstanding a negative report from such Commissioner(s), the Commission shall forthwith endeavor by conference, conciliation, and persuasion to eliminate the unlawful practice. The Commission and its staff shall not disclose what has occurred in the course of such endeavors except to disclose the terms of conciliation when the complaint has been disposed of in this manner.

(3.) In the case of failure to eliminate an alleged unlawful practice by the process of mediation or after ninety (90) days have passed from commencement of mediation, or if probable cause exists that a conciliation agreement has been violated, the Commission shall issue and serve in its

name a written notice, together with a copy of the complaint, requiring the person named in the complaint (hereinafter called "the respondent") to answer the charges of the complaint at a hearing of the Commission at a reasonable time and place specified in such notice. The respondent may file a written verified answer to the complaint and appear at such hearing in person, with or without counsel, and submit testimony. The Commission may designate a staff member to present evidence on behalf of the complainant or may permit the complainant to do so himself or herself or by counsel. The Commission shall not be bound by the strict rules of evidence prevailing in the courts. The testimony taken at the hearing shall be under oath and recorded, and shall be transcribed at the request of any party.

- (4.) If, upon all the evidence, the Commission shall find that a respondent has not engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to said respondent.

If, upon all the evidence, the Commission shall find that a respondent has engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall forthwith seek relief through one or more of the following actions:

- a. File a criminal complaint against the respondent in the Cambridge District Court or in the district court for the judicial district in which the respondent resides, seeking fines of up to Three Hundred Dollars (\$300), or the maximum under State law, for each such violation.
- b. Levy a civil fine of up to Three Hundred Dollars (\$300) for each such violation.
- c. File a complaint against the respondent in Superior Court seeking injunctive relief, including a temporary restraining order; or
- d. File a complaint against the respondent in a court of appropriate jurisdiction seeking the award to the complainant of damages, expenses, punitive damages, and other relief, as appropriate.

The Commission may be represented in court by the City Solicitor or by its own attorneys.

- e. The Commission shall receive and investigate complaints of and initiate its own investigation of the following activities and unlawful practices:

9. A. Any practice that by design or effect discriminates against individuals, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is of public concern, as such discrimination creates strife, hostility and unrest, threatens or impairs the rights and privileges of individuals and deprives individuals of the benefits of a free and open society. Discrimination that deprives individuals of equal opportunities is unjust and results in serious injury to the public safety, health, and welfare of this City.

Accordingly, it is the policy of the City of Cambridge to safeguard the equal opportunities of all individuals in the City in accordance with their abilities, regardless of their race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income and to prevent discrimination against such individuals in the provision of city services and in employment, housing and real estate, education, credit, bonding, insurance, and public accommodations.

Further, it is the policy of the City to encourage harmony and mutual respect among its inhabitants and visitors and to reduce tensions and strife caused by discrimination.

- B. The provisions of this Ordinance shall be construed liberally for the accomplishment of the purposes hereof, and any ordinances or portions thereof inconsistent with any provisions hereof shall not apply.

This Ordinance shall be deemed an exercise of the police power of the City of Cambridge for the protection of the public safety, health, prosperity, and welfare.

- C. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by the laws of the federal government or of this Commonwealth.

Nothing in this Ordinance shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the Commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this Ordinance.

Any remedies provided by this Ordinance shall be cumulative with any other remedies provided by local, state, or federal law.

- D. Should any Section, provision, paragraph, sentence, or word of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the portion so declared to be invalid.

- E. As used in this Ordinance,

- (1.) The term "age" shall mean the actual or supposed chronological age of an individual eighteen (18) years or older.

- (2.) The term "bona fide occupational qualification" shall mean a valid consideration of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income that is a requirement for employment and has been certified as such by the Cambridge Human Rights Commission (herein referred to as "the Commission") or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws.

- (3.) The term "disability" shall mean any actual or supposed physical or mental handicap of an individual, other than the state of being presently legally incompetent.
- (4.) The term "discrimination" shall mean a policy or practice that by design or effect segregates, creates unequal status, separates, or has a disproportionate impact on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.
- (5.) The term "educational facility" shall mean any person, whether organized for profit or not-for-profit, that hold itself out to the public as providing instruction in the arts, sciences, trades, or any other area of learning.
- (6.) The term "family status" shall mean the actual or supposed condition of having minor children living with the individual or not.
- (7.) The term "real estate transaction" shall mean any intercourse among any persons that involves a building, structure or portion thereof, or parcel of land, developed or undeveloped, whether privately owned or owned by a public agency, including the design, construction, alteration, repair, sale, lease, sublease, mortgage, rental, or other provision, term, or offer of the same.
- (8.) The term "labor organization" shall mean any association, regardless of its form of organization, or employees or persons involved in similar trades or industries for the purpose of collective bargaining, resolving grievances in the terms and conditions of employment, or any other mutual aid or protection.
- (9.) The term "marital status" shall mean the actual or supposed state of being or having been married, separated, or divorced, or not.
- (10.) The term "military status" shall mean the actual or supposed condition of being or having been in the service of the military, or not.
- (11.) The term "public accommodation" shall mean any place or site, business or other establishment, or medium of communication, whether owned privately or by a public agency, that is intended for the patronage or use or convenience, whether for a charge or fee or not, of the general public, including but not limited to, inns, hotels, motels, roadhouses, trailer parks, campsites, any place where food or beverage is sold, retail stores, shopping malls, dispensaries, clinics, hospitals, rest homes, nursing homes, hospices, physicians' offices or other medical facilities, rest rooms, bathhouses, parks, public grounds, gardens, theaters, lecture halls, newspapers and magazines and other publications, barber shops, beauty parlors, motion picture houses, music halls, bowling alleys, amusement parks and arcades, skating rinks, ballparks, billiard and pool parlors, recreation parks, fairs, golf courses, gymnasiums, health clubs, shooting galleries, art galleries, libraries, laundries,

garages, all public conveyances whether owned privately or by a public agency, transportation terminals and stations, public portions of buildings accommodating the public, clubs, societies, and social associations that are public or quasi-public, banks, finance companies, insurance companies, streets, and parking lots.

Nothing contained herein shall be construed to include or apply to any place of accommodation that is by its nature distinctly private, provided that where public use is permitted that use shall be covered by this section and further provided, that an establishment that has membership requirements but otherwise qualifies as a public accommodation shall be deemed a public accommodation for the purpose of this Ordinance if its membership requirements: i) consist only of the payment of fees or dues; ii) consist of requirements under which a substantial portion of the residents of or visitors to this city could qualify; or iii) consist primarily of a discrimination or exclusion based upon race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

- (12.) The term "religious creed" shall mean the actual or supposed faith, belief, or moral philosophy of an individual or the lack thereof.
- (13.) The term "sexual orientation" shall mean actual or supposed heterosexuality, homosexuality, or bisexuality.
- (14.) The term "source of income" shall mean the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents, excluding the use of criminal activities as a means of support.

In City Council September 24, 1984.

Passed to be ordained as amended by a yea and nay vote:-
Yeas 6; Nays 3; Absent 0.

Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.



RECEIVED BY
CITY CLERK

SEP 14 1 04 PM '84
CAMBRIDGE, MASSACHUSETTS
CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

Alice K. Wolf
City Councillor

September 14, 1984

The Honorable; the City Council:

I hereby transmit the following technical changes recommended by Councillor David Sullivan on the Human Rights Ordinance which we feel should be amended before passage to be ordained. They make no substantive changes in the ordinance as it stands.

Page 2 Section 4C last paragraph add after City Solicitor
"or by its own attorneys."

Page 3 8A
Move "presence ... engender" up 2 lines after complaints to read:

The Commission shall receive and investigate complaints of presence in the City of prejudice, intolerance, or bigotry, including but not limited to such matters as the choice of lifestyle and the consequences such attitudes in the community engender, and initiate its own investigation of the following activities and unlawful practices:

Page 3 8 A
Move to become 8E on Page 11
Renumber 8 A (3) - 8 A (19) to become 8 A (1) - 8 A (17)

Page 10 8 D 1 - Paragraph 3
Delete by "means ... jurisdiction" and substitute "in any other administrative or judicial forum."

Page 11 First paragraph - Line 11
delete "of law or equity" add "the" before courts to read
"in the courts."

Page 11 (4) b.
Paragraph to read "Levy a civil fine of up to Three Hundred Dollars
(\$300) for each such violation."

Page 11 Add 8 E (See above)

Page 13 (13) change bisexuality to "bisexuality".

Your kind attention to these changes are appreciated.

Sincerely,

Alice K. Wolf
City Councillor

AKW/smc

Comm. from Councillor Alice Wolf, transmitting a copy of technical changes recommended by C.D. Sullivan on the Human Rights ordinance, which both Councillors feel should be amended prior to passage to ordination. Said technical changes make no substitute changes in the Ordinance as it stands.

In City Council,

September 17, 1984

9/17/84

Referred to the
Proposed Amendments
#2 under Human Rights
- Business -



RECEIVED BY
CITY CLERK

CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

Alice K. Wolf
City Councillor

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AKW/smc



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CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

Alice K. Wolf
City Councillor

September 14, 1984

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Your kind attention to these changes are appreciated.

Sincerely,

Alice K. Wolf
City Councillor

AKW/smc

- D. The Commission of Human Rights shall work with the City Manager and/or his assistants on matters pertaining to the human rights of Cambridge citizens. The main purpose for which this ordinance is enacted is to protect the human rights of all the citizens of Cambridge.
4. The Commission shall discuss human rights problem areas with the City Manager and make recommendations necessary to protect the human rights of all Cambridge citizens and employees.
 - A. The Commission shall request of the City Manager, department heads, and Superintendent of Schools, such information and staff support as is reasonable so that it may be properly informed.
 - B. The Commission may review and comment on all matters pertaining to the human rights of citizens. They may examine and scrutinize and comment on department budgets including the School Department budget.
 - C. The Commission shall, with the advice and consent of the City Manager, employ an Executive Director who shall be the executive officer of the Commission and shall be responsible for carrying out the policies and decisions of the Commission. The Commission may employ an Administrative Assistant or such other personnel as it may from time to time deem necessary.

The Commission shall, when appropriate, request the assistance of the staff and Commissions of the City engaged in related work, such as the Commission on the Status of Women, the Civic Unity Committee, the Commission on the Handicapped, the Fair Housing Office, the Affirmative Action Officer, the Consumers' Council, the Council on Aging, and the Veterans' Service Department, and shall at all times work cooperatively with these groups.

The Commission shall receive aid, advice, and opinions from the City Solicitor and the legal department, and be represented in court by the City Solicitor or ^{by} but its own attorneys.

- D. The City Manager shall provide office space in City Hall to the Commission in order to give easy access to citizen complaints.
 - E. Each year, the Commission and the City Manager, together or separately, shall report to the City Council in writing as to the progress that is being made under this ordinance. These written reports may properly contain suggestions and recommendations which will further the aims of this ordinance.
5. The Commission may at any time question matters pertaining to Cambridge bona-fide residents who are faculty members and/or students of local schools and universities who are involved in Human Rights complaints.
 6. Any contract entered into by the City or the Cambridge Schools, or any of their agencies, departments, or subdivisions shall contain a covenant by the contractor and his or her subcontractors not to violate this Ordinance. Breach of this covenant shall be regarded as a material breach of the contract.

This Section shall not impair the obligation of any presently existing contract.

City of Cambridge, every City contractor and subcontractor, every employer with one hundred (100) or more employees, every owner of an apartment building or housing complex of fifteen (15) or more units, every employment agency, every realtor and real estate agency, and every apartment or roommate service shall prominently post and keep posted the following notice at its place of business or in such apartment building or housing complex:

"Discrimination on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is unlawful in the City of Cambridge. Chapter 25, Cambridge City Code.

Cambridge Human Rights Commission
Cambridge, MA

The blanks in the model above shall be properly filled with the address and telephone number of the offices of the Commission.

It shall be a crime punishable by a fine of not more than fifty dollars (\$50) per violation to willfully violate this Section.

§ A → The Commission shall receive and investigate complaints of presence in the City of prejudice, intolerance, or bigotry, including but not limited to such matters as the choice of lifestyle and the consequences such attitudes in the community engender, and initiate its own investigation of the following activities and unlawful practices:

It shall be a crime punishable by a fine of not more than three hundred dollars (\$300), or the maximum under State Law, per violation to commit any unlawful practice under this section 8. → to p. 11 (8.E.)

- (1) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to discriminate against any person in the provision of services, facilities, employment, housing or real estate transactions, education, or other opportunities because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such persons.
- (2) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to commit any act prohibited in this Ordinance which would be unlawful if committed by a private person.
- (3) It shall be an unlawful practice to deny any person or group equal access to city services in employment, housing, education, recreation, or other areas where such denial is based on limited English language skills.

ame a written notice, together with a copy of the complaint, requiring the person named in the complaint (hereinafter called "the respondent") to answer the charges of the complaint at a hearing of the Commission at a reasonable time and place specified in such notice. The respondent may file a written verified answer to the complaint and appear at such hearing in person, with or without counsel, and submit testimony. The Commission may designate a staff member to present evidence on behalf of the complainant or may permit the complainant to do so himself or herself or by counsel. The Commission shall not be bound by the strict rules of evidence prevailing in the courts. The testimony taken at the hearing shall be under oath and recorded, and shall be transcribed at the request of any party.

- (4.) If, upon all the evidence, the Commission shall find that a respondent has not engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to said respondent.

If, upon all the evidence, the Commission shall find that a respondent has engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall forthwith seek relief through one or more of the following actions:

- a. File a criminal complaint against the respondent in the Cambridge District Court or in the district court for the judicial district in which the respondent resides, seeking fines of up to Three Hundred Dollars (\$300), or the maximum under State law, for each such violation.
- b. Levy a civil fine of up to Three Hundred Dollars (\$300) for each such violation.
- c. File a complaint against the respondent in Superior Court seeking injunctive relief, including a temporary restraining order; or
- d. File a complaint against the respondent in a court of appropriate jurisdiction seeking the award to the complainant of damages, expenses, punitive damages, and other relief, as appropriate.

The Commission may be represented in court by the City Solicitor or by its own attorneys.

- e. The Commission shall receive and investigate complaints of and initiate its own investigation of the following activities and unlawful practices:

- E. (see p. 3) *Insert new (8A) here*
9. A. Any practice that by design or effect discriminates against individuals, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is of public concern, as such discrimination creates strife, hostility and unrest, threatens or impairs the rights and privileges of individuals and deprives individuals of the benefits of a free and open society. Discrimination that deprives individuals of equal opportunities is unjust and results in serious injury to the public safety, health, and welfare of this City.
-



City of Cambridge

In the Year One Thousand, Nine Hundred 84

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Inasmuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E Charter.

There shall be a Commission known as the Cambridge Human Rights Commission to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter 25 entitled "Human Rights" which reads as follows:

CHAPTER 25

HUMAN RIGHTS

1. There shall be a Cambridge Human Rights Commission consisting of eleven members, which may be altered by an amendment to this ordinance by the City Council

The Commission shall be considered a Department of the City, with all the rights and responsibilities thereof. The Executive Director of the Commission shall be considered the department head.

2. The members shall be appointed by the City Manager for terms of three years. Initial appointments shall be for the following terms: three members for a term of three years, four members for a period of two years, and four members for a period of one year. Any vacancy occurring other than by expiration of term shall be filled by appointment by the City Manager for the unexpired term.
3. A. Not less than two months prior to making such appointments, or re-appointments, the City Manager shall solicit nominations from as many public service groups and other sources which he deems appropriate as possible.

In keeping with the policy of the Cambridge City Council, the members of the Commission shall be representative of the population of the City of Cambridge. The Commission shall contain members of groups traditionally targets of discriminatory behavior.

- B. All members of the Commission shall be residents of the City of Cambridge when appointments are being made by the City Manager, and throughout their tenure.
- C. The Commission shall elect a chairperson from among its members. The chairperson shall be elected at the first meeting each year. The Commission members shall make an attempt to rotate the election of a chairperson each year thereafter.

Six (6) members shall constitute a quorum for the purpose of conducting the business of the Commission and all decisions shall be by majority vote of the Commission members present and voting.

The Commission shall adopt rules and regulations consistent with this Ordinance and the Law of the Commonwealth of Massachusetts to carry out the policy and provisions of this Ordinance and the powers and duties of the Commission in connection therewith. Said rules shall insure the due process rights of all persons involved in investigations and hearings.

All records of the Commission shall be public except as provided by state law.

Members of the Commission shall serve without compensation but reasonable per diem and necessary expense reimbursement shall be paid out of the budget of the Commission.

The Commissioners shall be classified as special municipal employees for the purposes of Chapter 268A of the Massachusetts General Laws.

- D. The Commission of Human Rights shall work with the City Manager and/or his assistants on matters pertaining to the human rights of Cambridge citizens. The main purpose for which this ordinance is enacted is to protect the human rights of all the citizens of Cambridge.
4. The Commission shall discuss human rights problem areas with the City Manager and make recommendations necessary to protect the human rights of all Cambridge citizens and employees.
 - A. The Commission shall request of the City Manager, department heads, and Superintendent of Schools, such information and staff support as is reasonable so that it may be properly informed.
 - B. The Commission may review and comment on all matters pertaining to the human rights of citizens. They may examine and scrutinize and comment on department budgets including the School Department budget.
 - C. The Commission shall, with the advice and consent of the City Manager, employ an Executive Director who shall be the executive officer of the Commission and shall be responsible for carrying out the policies and decisions of the Commission. The Commission may employ an Administrative Assistant or such other personnel as it may from time to time deem necessary.

The Commission shall, when appropriate, request the assistance of the staff and Commissions of the City engaged in related work, such as the Commission on the Status of Women, the Civic Unity Committee, the Commission on the Handicapped, the Fair Housing Office, the Affirmative Action Officer, the Consumers' Council, the Council on Aging, and the Veterans' Service Department, and shall at all times work cooperatively with these groups.

The Commission shall receive aid, advice, and opinions from the City Solicitor and the legal department, and be represented in court by the City Solicitor or but its own attorneys.

- D. The City Manager shall provide office space in City Hall to the Commission in order to give easy access to citizen complaints.
 - E. Each year, the Commission and the City Manager, together or separately, shall report to the City Council in writing as to the progress that is being made under this ordinance. These written reports may properly contain suggestions and recommendations which will further the aims of this ordinance.
5. The Commission may at any time question matters pertaining to Cambridge bona-fide residents who are faculty members and/or students of local schools and universities who are involved in Human Rights complaints.
 6. Any contract entered into by the City or the Cambridge Schools, or any of their agencies, departments, or subdivisions shall contain a covenant by the contractor and his or her subcontractors not to violate this Ordinance. Breach of this covenant shall be regarded as a material breach of the contract.

This Section shall not impair the obligation of any presently existing contract.

The City of Cambridge, every City contractor and subcontractor, every employer with one hundred (100) or more employees, every owner of an apartment building or housing complex of fifteen (15) or more units, every employment agency, every realtor and real estate agency, and every apartment or roommate service shall prominently post and keep posted the following notice at its place of business or in such apartment building or housing complex:

"Discrimination on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is unlawful in the City of Cambridge. Chapter 25, Cambridge City Code.

Cambridge Human Rights Commission

Cambridge, MA

The blanks in the model above shall be properly filled with the address and telephone number of the offices of the Commission.

It shall be a crime punishable by a fine of not more than fifty dollars (\$50) per violation to willfully violate this Section.

The Commission shall receive and investigate complaints of presence in the City of prejudice, intolerance, or bigotry, including but not limited to such matters as the choice of lifestyle and the consequences such attitudes in the community engender, and initiate its own investigation of the following activities and unlawful practices:

- 8A. It shall be a crime punishable by a fine of not more than three hundred dollars (\$300), or the maximum under State Law, per violation to commit any unlawful practice under this section 8.
- (1) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to discriminate against any person in the provision of services, facilities, employment, housing or real estate transactions, education, or other opportunities because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such persons.
 - (2) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to commit any act prohibited in this Ordinance which would be unlawful if committed by a private person.
 - (3) It shall be an unlawful practice to deny any person or group equal access to city services in employment, housing, education, recreation, or other areas where such denial is based on limited English language skills.

- (4.) It shall be an unlawful practice for an employer directly or indirectly to refuse to hire or employ or to bar or to discharge from employment, training, or apprenticeship or to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment, training, or apprenticeship, because of the race, color, sex, age, religious creed, physical handicap, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification. An employer who asserts that a discriminatory practice is justified because of a bona fide occupational qualification that has not been certified as such by the Commission or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws, shall have the burden of showing i) that the discrimination is in fact a necessary result of a bona fide occupational qualification, and ii) that there exists no less discriminatory means of satisfying the occupational qualifications.

Reasonable accomodation shall be made to enable the employment or continued employment of a disabled person unless the employer can demonstrate that the extent of the accomodation required to meet the limitations of the person would impose an undue hardship or safety hazard to the employer's business.

The following practices shall be exempt from the operation of this Section:

- a. Employment practices of an employer of fewer than six (6) persons.
- b. Employment of an individual by his or her parent, child, or spouse.
- c. Employment by a religious institution of individuals performing a service related to a bona fide religious purpose.
- d. Employment of an individual for work within the home of the employer.
- e. Employment of an individual for the rendering of services to the person of the employer or his or her family.

The following practices shall not be deemed unlawful:

- f. Employment programs designed to effect affirmative action by giving special preference to women, racial minorities, or veterans provided that such employment programs shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- g. Employment limited to the elderly or disabled, provided that such employment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

- h. Observance by an employer of the conditions of a bona fide employee benefits system or plan (including, but not limited to, a contractual seniority system), provided that no such system or plan shall provide an excuse for failure to hire any individual.
- (5.) It shall be an unlawful practice for any employment agency directly or indirectly to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry sexual orientation, marital status, family status, military status, or source of income of such individual. An employment agency that specializes in the recruitment and placement of elderly or disabled employees shall be exempt from the operation of this Section with respect to such specialized services, provided that such services shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- (6.) It shall be an unlawful practice for a labor organization directly or indirectly to refuse to admit to membership, training, apprenticeship, or classification or to otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual.
- (7.) It shall be an unlawful practice for an employer, employment agency, or labor organization directly or indirectly to advertise or otherwise publicize that any individual is unwelcome or not employable because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification or one of the exceptions set forth in Sections 8A(6), 8A(7), or 8A(8).
- (8.) It shall be an unlawful practice for any person directly or indirectly to refuse to engage in a real estate transaction with any person or to set discriminatory terms or conditions with respect to a real estate transaction with any person or to advertise or otherwise publicize that any person is unwelcome or may not enter into a real estate transaction because of the race, color, sex, age religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person or of a person residing with such person.

This section does not create an affirmative duty to remove barriers for the disabled in excess of the requirements of existing laws and ordinances, but reasonable accomodation shall be made to enable the provision of housing for a handicapped person.

The following practices shall be exempt from the operation of this Section:

- a. The leasing or renting of a room or rooms within a dwelling or apartment which is occupied by the lessor as his or her residence and in which the roomer or boarder must pass through the space or a portion thereof occupied by such lessor in order to gain access to the room or rooms thus let or rented.
- b. The leasing or renting of a single apartment in a two-family dwelling, the other residential unit of which is occupied by the lessor as his or her residence.
- c. The leasing, rental, or other provision with or without fee or space within a church, temple, synagogue, religious school, or other facility used primarily for religious purposes.

The following practices shall not be deemed unlawful:

- d. The establishment of government-sponsored housing programs operated either directly by government agencies or indirectly through government subsidization and regulation, which programs are designed to assist the elderly, disabled, or economically disadvantaged individuals, provided that such programs shall not discriminate among the elderly, disabled, or economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - e. The establishment of housing set aside for or limited to the elderly or the disabled, provided that such establishment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - f. The establishment of same-sex dormitories or portions thereof by educational facilities, provided that such establishment shall not discriminate on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - g. The establishment of a hospital, convent, monastery, shelter, asylum, or residential facility for the care and lodging of persons in need of special medical, rehabilitative, social, or psychological support, including but not limited to half-way houses, drug treatment centers, detoxification facilities, shelters for the homeless, and the like.
- (9.) It shall be an unlawful practice for any bank, financial institution, or any other credit-granting or -approving institution or person, including a retail store that sells goods or services on credit, directly or indirectly to discriminate in the granting, reporting, approval, or extension of any form of loan or credit to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person. It shall not be an unlawful practice under this Section to establish or review the creditworthiness of any person by seeking information relevant to such creditworthiness as amount and source of income, age, employment history, credit references, and the number and age of dependents.

- (10.) It shall be an unlawful practice for any insurance company, insurance agent, or person engaged in the service of providing insurance to refuse to insure any person or discriminate in the terms of insuring any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, unless based on a bona fide actuarially determined insurance factor, such as the age or health of the person, that affects the risk for which insurance is being sought.

In accordance with Federal court cases, it is the intention of this section that actuarial data be gender-neutral.

- (11.) It shall be an unlawful practice for any bonding institution or person engaged in the service of providing financial and performance bonds to refuse to bond any person or discriminate in the terms of bonding because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.
- (12.) It shall be an unlawful practice for any educational facility directly or indirectly to fail or refuse to admit, or to curtail or terminate admission to, or to discriminate in the terms or conditions of educational services, programs, opportunities, or curriculum offered by it to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The establishment by an educational facility of minimum or maximum age requirements for any educational program, provided that such establishment shall not discriminate among the potential students on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- b. The selection of students by a religious educational facility that is limited exclusively or gives preference to members of such religion, provided that such selection shall not discriminate among the members of such religion on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- c. The maintenance or establishment by an education facility of a school or program limited to members of only one sex or otherwise segregated by sex, provided that such facility shall not discriminate among the members of such sex on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- d. Educational programs or policies designed to effect affirmative action by giving special preference to women, racial minorities, or veterans, provided that such programs or policies shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

e. The establishment by an educational facility of special programs designed to assist or provide special training for the disabled, the elderly, individuals not fluent in English, or the economically disadvantaged. Provided that such selection shall not discriminate among the disabled, elderly, individuals not fluent in English, or the economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

(13.) It shall be an unlawful practice for any person directly or indirectly to withhold, deny, curtail, or in any manner limit the full use of a public accomodation by any person, or discriminate against such person with respect to the use of such accommodation, because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

It shall be an unlawful practice for any person directly or indirectly to advertise or otherwise publicize that any person is unwelcome to the full use of any public accommodation because of the race, color, disability, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The designation of a public accomodation for the exclusive or preferential use of the elderly or the disabled.
- b. The designation of a restroom or of a privately-owned athletic or exercise facility for the exclusive or preferential use of members of a single sex.
- c. The advertisement of a public accomodation as being for the preferential use of persons of a particular sex, age, religious creed, national origin or ancestry, sexual orientation, marital status, family status, or military status, provided such preference is not advertised as or implied to be a requirement for entry or use of such public accommodation.

(14.) It shall be an unlawful practice for any person to harass, intimidate, threaten, assault, or otherwise discriminate against any person in or upon any public accommodation because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, or attempt to do so.

(15.) It shall be an unlawful practice for any person to commit any act forbidden by this Ordinance for any reason that would not have been asserted, wholly or partially, but for the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of any person.

(16.) It shall be an unlawful practice for any person to aid, abet, incite, compel, coërce, or conspire to the commission of any of the acts forbidden by this Ordinance or to attempt to do so.

- (17.) It shall be an unlawful practice for any person to discharge, expel, evict, harass, retaliate in any manner or otherwise take action against any person because such person has opposed any act forbidden by this Ordinance or because such person has filed a complaint, testified, or assisted in any proceeding under this Ordinance.
- B. The Commission shall work cooperatively with federal, state, and city agencies, including, but not limited to the School Department and the Massachusetts Commission Against Discrimination, in developing materials, workshops, public presentations, and other educational resources designed to eliminate prejudice, intolerance, bigotry, and discrimination and to enlist the cooperation of the various racial, religious, and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations and other groups to further the intent and purposes of this Ordinance.
- C. The function of the Commission shall be to implement the policy of this Ordinance by receiving and investigating complaints of discrimination, initiating its own investigations of discrimination, mediating complaints, holding hearings, and presenting findings to the City Manager and/or government agencies such as the Massachusetts Commission Against Discrimination or the courts.

The Commission shall exercise its authority through the following powers and duties:

- (1.) To receive and investigate complaints and to initiate its own investigations of violations of this Ordinance.
- (2.) To transmit for filing with other government agencies copies of any and all complaints filed with the Commission, or which the Commission is otherwise aware, that relate to acts of discrimination under the jurisdiction of such agencies.
- (3.) To attempt by mediation to resolve any discrimination complaint over which it has jurisdiction and to recommend to all appropriate government agencies such action as it feels will resolve any such complaint and, if deemed expedient, to hold hearings, summons, witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any relevant evidence. The power to summons witnesses as herein defined shall be limited to those powers and procedures set forth in Chapter 233, Section 8 of the Massachusetts General Laws. At any hearing before the Commission, or any committee thereof, a witness shall have the right to be advised and represented by counsel present during any such hearing.
- (4.) With respect to complaints not resolved by mediation, to file a complaint or report of its findings and recommendations with any court or government agency having jurisdiction over the matter in question; to seek or apply remedies as enumerated in Section 8D below; and in all cases urging and using its best efforts to bring about compliance with its recommendations.

(5.) To seek or accept grants, gifts, or bequests to help finance its activities.

D. (1.) Any person or class of persons claiming to be aggrieved by an alleged violation of this Ordinance may make, sign, and file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed such violation and the particulars and other such information as may be required by the Commission. The Commission may also on its own motion issue a complaint, whenever it has reason to believe that any person has engaged in an unlawful practice in violation of this Ordinance.

No complaint shall be considered unless it is filed within one hundred eighty (180) days after the occurrence of the alleged unlawful practice, or unless it has been referred to the Commission by the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission after having been timely filed with either or both agencies.

The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar the complainant from seeking relief in any other administrative or judicial forum.

Nor shall filing or failing to file a complaint with other federal, state, or city agencies or courts bar the complainant from seeking relief through the Commission.

(2.) After the filing of any complaint, the Chairperson of the Commission shall designate the Executive Director or one or more of the Commissioners to oversee a prompt investigation thereof with the assistance of the staff of the Commission.

If such Commissioner(s) determine after such investigation that no probable cause exists for crediting the allegations of the complaint, they shall promptly file a report of such findings with the Commission, which shall determine whether or not to dismiss the complaint. The Commission shall, within ten days from such determination, notify the complainant in writing of such determination.

If such Commissioner(s) determine after such investigations that probable cause does exist for crediting the allegations of the complaint or if the Commission so determines, notwithstanding a negative report from such Commissioner(s), the Commission shall forthwith endeavor by conference, conciliation, and persuasion to eliminate the unlawful practice. The Commission and its staff shall not disclose what has occurred in the course of such endeavors except to disclose the terms of conciliation when the complaint has been disposed of in this manner.

(3.) In the case of failure to eliminate an alleged unlawful practice by the process of mediation or after ninety (90) days have passed from commencement of mediation, or if probable cause exists that a conciliation agreement has been violated, the Commission shall issue and serve in its

name a written notice, together with a copy of the complaint, requiring the person named in the complaint (hereinafter called "the respondent") to answer the charges of the complaint at a hearing of the Commission at a reasonable time and place specified in such notice. The respondent may file a written verified answer to the complaint and appear at such hearing in person, with or without counsel, and submit testimony. The Commission may designate a staff member to present evidence on behalf of the complainant or may permit the complainant to do so himself or herself or by counsel. The Commission shall not be bound by the strict rules of evidence prevailing in the courts. The testimony taken at the hearing shall be under oath and recorded, and shall be transcribed at the request of any party.

- (4.) If, upon all the evidence, the Commission shall find that a respondent has not engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to said respondent.

If, upon all the evidence, the Commission shall find that a respondent has engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall forthwith seek relief through one or more of the following actions:

- a. File a criminal complaint against the respondent in the Cambridge District Court or in the district court for the judicial district in which the respondent resides, seeking fines of up to Three Hundred Dollars (\$300), or the maximum under State law, for each such violation.
- b. Levy a civil fine of up to Three Hundred Dollars (\$300) for each such violation.
- c. File a complaint against the respondent in Superior Court seeking injunctive relief, including a temporary restraining order; or
- d. File a complaint against the respondent in a court of appropriate jurisdiction seeking the award to the complainant of damages, expenses, punitive damages, and other relief, as appropriate.

The Commission may be represented in court by the City Solicitor or by its own attorneys.

- e. The Commission shall receive and investigate complaints of and initiate its own investigation of the following activities and unlawful practices:

9. A. Any practice that by design or effect discriminates against individuals, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is of public concern, as such discrimination creates strife, hostility and unrest, threatens or impairs the rights and privileges of individuals and deprives individuals of the benefits of a free and open society. Discrimination that deprives individuals of equal opportunities is unjust and results in serious injury to the public safety, health, and welfare of this City.

Accordingly, it is the policy of the City of Cambridge to safeguard the equal opportunities of all individuals in the City in accordance with their abilities, regardless of their race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income and to prevent discrimination against such individuals in the provision of city services and in employment, housing and real estate, education, credit, bonding, insurance, and public accommodations.

Further, it is the policy of the City to encourage harmony and mutual respect among its inhabitants and visitors and to reduce tensions and strife caused by discrimination.

- B. The provisions of this Ordinance shall be construed liberally for the accomplishment of the purposes hereof, and any ordinances or portions thereof inconsistent with any provisions hereof shall not apply.

This Ordinance shall be deemed an exercise of the police power of the City of Cambridge for the protection of the public safety, health, prosperity, and welfare.

- C. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by the laws of the federal government or of this Commonwealth.

Nothing in this Ordinance shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the Commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this Ordinance.

Any remedies provided by this Ordinance shall be cumulative with any other remedies provided by local, state, or federal law.

- D. Should any Section, provision, paragraph, sentence, or word of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the portion so declared to be invalid.
- E. As used in this Ordinance,
- (1.) The term "age" shall mean the actual or supposed chronological age of an individual eighteen (18) years or older.
 - (2.) The term "bona fide occupational qualification" shall mean a valid consideration of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income that is a requirement for employment and has been certified as such by the Cambridge Human Rights Commission (herein referred to as "the Commission") or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws.

- (3.) The term "disability" shall mean any actual or supposed physical or mental handicap of an individual, other than the state of being presently legally incompetent.
- (4.) The term "discrimination" shall mean a policy or practice that by design or effect segregates, creates unequal status, separates, or has a disproportionate impact on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.
- (5.) The term "educational facility" shall mean any person, whether organized for profit or not-for-profit, that hold itself out to the public as providing instruction in the arts, sciences, trades, or any other area of learning.
- (6.) The term "family status" shall mean the actual or supposed condition of having minor children living with the individual or not.
- (7.) The term "real estate transaction" shall mean any intercourse among any persons that involves a building, structure or portion thereof, or parcel of land, developed or undeveloped, whether privately owned or owned by a public agency, including the design, construction, alteration, repair, sale, lease, sublease, mortgage, rental, or other provision, term, or offer of the same.
- (8.) The term "labor organization" shall mean any association, regardless of its form of organization, or employees or persons involved in similar trades or industries for the purpose of collective bargaining, resolving grievances in the terms and conditions of employment, or any other mutual aid or protection.
- (9.) The term "marital status" shall mean the actual or supposed state of being or having been married, separated, or divorced, or not.
- (10.) The term "military status" shall mean the actual or supposed condition of being or having been in the service of the military, or not.
- (11.) The term "public accommodation" shall mean any place or site, business or other establishment, or medium of communication, whether owned privately or by a public agency, that is intended for the patronage or use or convenience, whether for a charge or fee or not, of the general public, including but not limited to, inns, hotels, motels, roadhouses, trailer parks, campsites, any place where food or beverage is sold, retail stores, shopping malls, dispensaries, clinics, hospitals, rest homes, nursing homes, hospices, physicians' offices or other medical facilities, rest rooms, bathhouses, parks, public grounds, gardens, theaters, lecture halls, newspapers and magazines and other publications, barber shops, beauty parlors, motion picture houses, music halls, bowling alleys, amusement parks and arcades, skating rinks, ballparks, billiard and pool parlors, recreation parks, fairs, golf courses, gymnasiums, health clubs, shooting galleries, art galleries, libraries, laundries,

garages, all public conveyances whether owned privately or by a public agency, transportation terminals and stations, public portions of buildings accommodating the public, clubs, societies, and social associations that are public or quasi-public, banks, finance companies, insurance companies, streets, and parking lots.

Nothing contained herein shall be construed to include or apply to any place of accommodation that is by its nature distinctly private, provided that where public use is permitted that use shall be covered by this section and further provided, that an establishment that has membership requirements but otherwise qualifies as a public accommodation shall be deemed a public accommodation for the purpose of this Ordinance if its membership requirements: i) consist only of the payment of fees or dues; ii) consist of requirements under which a substantial portion of the residents of or visitors to this city could qualify; or iii) consist primarily of a discrimination or exclusion based upon race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

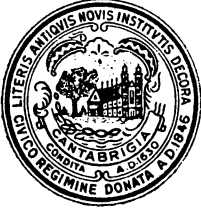
- (12.) The term "religious creed" shall mean the actual or supposed faith, belief, or moral philosophy of an individual or the lack thereof.
- (13.) The term "sexual orientation" shall mean actual or supposed heterosexuality, homosexuality, or bisexuality.
- (14.) The term "source of income" shall mean the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents, excluding the use of criminal activities as a means of support.

In City Council September 24, 1984.

Passed to be ordained as amended by a yeas and nays vote:-
Yeas 6; Nays 3; Absent 0.

Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.



City of Cambridge

In the Year One Thousand, Nine Hundred 84

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge.

Be it ordained by the City Council of the City of Cambridge as follows:

Inasmuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E Charter.

There shall be a Commission known as the Cambridge Human Rights Commission to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter 25 entitled "Human Rights" which reads as follows:

CHAPTER 25

HUMAN RIGHTS



1. There shall be a Cambridge Human Rights Commission consisting of eleven members, which may be altered by an amendment to this ordinance by the City Council

The Commission shall be considered a Department of the City, with all the rights and responsibilities thereof. The Executive Director of the Commission shall be considered the department head.

2. The members shall be appointed by the City Manager for terms of three years. Initial appointments shall be for the following terms: three members for a term of three years, four members for a period of two years, and four members for a period of one year. Any vacancy occurring other than by expiration of term shall be filled by appointment by the City Manager for the unexpired term.
3. A. Not less than two months prior to making such appointments, or re-appointments, the City Manager shall solicit nominations from as many public service groups and other sources which he deems appropriate as possible.

In keeping with the policy of the Cambridge City Council, the members of the Commission shall be representative of the population of the City of Cambridge. The Commission shall contain members of groups traditionally targets of discriminatory behavior.

- B. All members of the Commission shall be residents of the City of Cambridge when appointments are being made by the City Manager, and throughout their tenure.
- C. The Commission shall elect a chairperson from among its members. The chairperson shall be elected at the first meeting each year. The Commission members shall make an attempt to rotate the election of a chairperson each year thereafter.

Six (6) members shall constitute a quorum for the purpose of conducting the business of the Commission and all decisions shall be by majority vote of the Commission members present and voting.

The Commission shall adopt rules and regulations consistent with this Ordinance and the Law of the Commonwealth of Massachusetts to carry out the policy and provisions of this Ordinance and the powers and duties of the Commission in connection therewith. Said rules shall insure the due process rights of all persons involved in investigations and hearings.

All records of the Commission shall be public except as provided by state law.

Members of the Commission shall serve without compensation but reasonable per diem and necessary expense reimbursement shall be paid out of the budget of the Commission.

The Commissioners shall be classified as special municipal employees for the purposes of Chapter 268A of the Massachusetts General Laws.

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- D. The Commission of Human Rights shall work with the City Manager and/or his assistants on matters pertaining to the human rights of Cambridge citizens. The main purpose for which this ordinance is enacted is to protect the human rights of all the citizens of Cambridge.
4. The Commission shall discuss human rights problem areas with the City Manager and make recommendations necessary to protect the human rights of all Cambridge citizens and employees.
 - A. The Commission shall request of the City Manager, department heads, and Superintendent of Schools, such information and staff support as is reasonable so that it may be properly informed.
 - B. The Commission may review and comment on all matters pertaining to the human rights of citizens. They may examine and scrutinize and comment on department budgets including the School Department budget.
 - C. The Commission shall, with the advice and consent of the City Manager, employ an Executive Director who shall be the executive officer of the Commission and shall be responsible for carrying out the policies and decisions of the Commission. The Commission may employ an Administrative Assistant or such other personnel as it may from time to time deem necessary.

The Commission shall, when appropriate, request the assistance of the staff and Commissions of the City engaged in related work, such as the Commission on the Status of Women, the Civic Unity Committee, the Commission on the Handicapped, the Fair Housing Office, the Affirmative Action Officer, the Consumers' Council, the Council on Aging, and the Veterans' Service Department, and shall at all times work cooperatively with these groups.

The Commission shall receive aid, advice, and opinions from the City Solicitor and the legal department, and be represented in court by the City Solicitor or but its own attorneys.

- D. The City Manager shall provide office space in City Hall to the Commission in order to give easy access to citizen complaints.
 - E. Each year, the Commission and the City Manager, together or separately, shall report to the City Council in writing as to the progress that is being made under this ordinance. These written reports may properly contain suggestions and recommendations which will further the aims of this ordinance.
5. The Commission may at any time question matters pertaining to Cambridge bona-fide residents who are faculty members and/or students of local schools and universities who are involved in Human Rights complaints.
 6. Any contract entered into by the City or the Cambridge Schools, or any of their agencies, departments, or subdivisions shall contain a covenant by the contractor and his or her subcontractors not to violate this Ordinance. Breach of this covenant shall be regarded as a material breach of the contract.

This Section shall not impair the obligation of any presently existing contract.

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The City of Cambridge, every City contractor and subcontractor, every employer with one hundred (100) or more employees, every owner of an apartment building or housing complex of fifteen (15) or more units, every employment agency, every realtor and real estate agency, and every apartment or roommate service shall prominently post and keep posted the following notice at its place of business or in such apartment building or housing complex:

"Discrimination on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is unlawful in the City of Cambridge. Chapter 25, Cambridge City Code.

Cambridge Human Rights Commission
Cambridge, MA

The blanks in the model above shall be properly filled with the address and telephone number of the offices of the Commission.

It shall be a crime punishable by a fine of not more than fifty dollars (\$50) per violation to willfully violate this Section.

The Commission shall receive and investigate complaints of presence in the City of prejudice, intolerance, or bigotry, including but not limited to such matters as the choice of lifestyle and the consequences such attitudes in the community engender, and initiate its own investigation of the following activities and unlawful practices:

8A. It shall be a crime punishable by a fine of not more than three hundred dollars (\$300), or the maximum under State Law, per violation to commit any unlawful practice under this section 8.

- (1) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to discriminate against any person in the provision of services, facilities, employment, housing or real estate transactions, education, or other opportunities because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such persons.
- (2) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to commit any act prohibited in this Ordinance which would be unlawful if committed by a private person.
- (3) It shall be an unlawful practice to deny any person or group equal access to city services in employment, housing, education, recreation, or other areas where such denial is based on limited English language skills.

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- (4.) It shall be an unlawful practice for an employer directly or indirectly to refuse to hire or employ or to bar or to discharge from employment, training, or apprenticeship or to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment, training, or apprenticeship, because of the race, color, sex, age, religious creed, physical handicap, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification. An employer who asserts that a discriminatory practice is justified because of a bona fide occupational qualification that has not been certified as such by the Commission or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws, shall have the burden of showing i) that the discrimination is in fact a necessary result of a bona fide occupational qualification, and ii) that there exists no less discriminatory means of satisfying the occupational qualifications.

Reasonable accomodation shall be made to enable the employment or continued employment of a disabled person unless the employer can demonstrate that the extent of the accomodation required to meet the limitations of the person would impose an undue hardship or safety hazard to the employer's business.

The following practices shall be exempt from the operation of this Section:

- a. Employment practices of an employer of fewer than six (6) persons.
- b. Employment of an individual by his or her parent, child, or spouse.
- c. Employment by a religious institution of individuals performing a service related to a bona fide religious purpose.
- d. Employment of an individual for work within the home of the employer.
- e. Employment of an individual for the rendering of services to the person of the employer or his or her family.

The following practices shall not be deemed unlawful:

- f. Employment programs designed to effect affirmative action by giving special preference to women, racial minorities, or veterans provided that such employment programs shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- g. Employment limited to the elderly or disabled, provided that such employment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

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- h. Observance by an employer of the conditions of a bona fide employee benefits system or plan (including, but not limited to, a contractual seniority system), provided that no such system or plan shall provide an excuse for failure to hire any individual.
- (5.) It shall be an unlawful practice for any employment agency directly or indirectly to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry sexual orientation, marital status, family status, military status, or source of income of such individual. An employment agency that specializes in the recruitment and placement of elderly or disabled employees shall be exempt from the operation of this Section with respect to such specialized services, provided that such services shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- (6.) It shall be an unlawful practice for a labor organization directly or indirectly to refuse to admit to membership, training, apprenticeship, or classification or to otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual.
- (7.) It shall be an unlawful practice for an employer, employment agency, or labor organization directly or indirectly to advertise or otherwise publicize that any individual is unwelcome or not employable because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification or one of the exceptions set forth in Sections 8A(6), 8A(7), or 8A(8).
- (8.) It shall be an unlawful practice for any person directly or indirectly to refuse to engage in a real estate transaction with any person or to set discriminatory terms or conditions with respect to a real estate transaction with any person or to advertise or otherwise publicize that any person is unwelcome or may not enter into a real estate transaction because of the race, color, sex, age religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person or of a person residing with such person.

This section does not create an affirmative duty to remove barriers for the disabled in excess of the requirements of existing laws and ordinances, but reasonable accomodation shall be made to enable the provision of housing for a handicapped person.

The following practices shall be exempt from the operation of this Section:

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- a. The leasing or renting of a room or rooms within a dwelling or apartment which is occupied by the lessor as his or her residence and in which the roomer or boarder must pass through the space or a portion thereof occupied by such lessor in order to gain access to the room or rooms thus let or rented.
- b. The leasing or renting of a single apartment in a two-family dwelling, the other residential unit of which is occupied by the lessor as his or her residence.
- c. The leasing, rental, or other provision with or without fee or space within a church, temple, synagogue, religious school, or other facility used primarily for religious purposes.

The following practices shall not be deemed unlawful:

- d. The establishment of government-sponsored housing programs operated either directly by government agencies or indirectly through government subsidization and regulation, which programs are designed to assist the elderly, disabled, or economically disadvantaged individuals, provided that such programs shall not discriminate among the elderly, disabled, or economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - e. The establishment of housing set aside for or limited to the elderly or the disabled, provided that such establishment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E.(4) hereof.
 - f. The establishment of same-sex dormitories or portions thereof by educational facilities, provided that such establishment shall not discriminate on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - g. The establishment of a hospital, convent, monastery, shelter, asylum, or residential facility for the care and lodging of persons in need of special medical, rehabilitative, social, or psychological support, including but not limited to half-way houses, drug treatment centers, detoxification facilities, shelters for the homeless, and the like.
- (9.) It shall be an unlawful practice for any bank, financial institution, or any other credit-granting or -approving institution or person, including a retail store that sells goods or services on credit, directly or indirectly to discriminate in the granting, reporting, approval, or extension of any form of loan or credit to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person. It shall not be an unlawful practice under this Section to establish or review the creditworthiness of any person by seeking information relevant to such creditworthiness as amount and source of income, age, employment history, credit references, and the number and age of dependents.

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- (10.) It shall be an unlawful practice for any insurance company, insurance agent, or person engaged in the service of providing insurance to refuse to insure any person or discriminate in the terms of insuring any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, unless based on a bona fide actuarially determined insurance factor, such as the age or health of the person, that affects the risk for which insurance is being sought.

In accordance with Federal court cases, it is the intention of this section that actuarial data be gender-neutral.

- (11.) It shall be an unlawful practice for any bonding institution or person engaged in the service of providing financial and performance bonds to refuse to bond any person or discriminate in the terms of bonding because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.
- (12.) It shall be an unlawful practice for any educational facility directly or indirectly to fail or refuse to admit, or to curtail or terminate admission to, or to discriminate in the terms or conditions of educational services, programs, opportunities, or curriculum offered by it to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The establishment by an educational facility of minimum or maximum age requirements for any educational program, provided that such establishment shall not discriminate among the potential students on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- b. The selection of students by a religious educational facility that is limited exclusively or gives preference to members of such religion, provided that such selection shall not discriminate among the members of such religion on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- c. The maintenance or establishment by an education facility of a school or program limited to members of only one sex or otherwise segregated by sex, provided that such facility shall not discriminate among the members of such sex on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- d. Educational programs or policies designed to effect affirmative action by giving special preference to women, racial minorities, or veterans, provided that such programs or policies shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

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- e. The establishment by an educational facility of special programs designed to assist or provide special training for the disabled, the elderly, individuals not fluent in English, or the economically disadvantaged. Provided that such selection shall not discriminate among the disabled, elderly, individuals not fluent in English, or the economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

(13.) It shall be an unlawful practice for any person directly or indirectly to withhold, deny, curtail, or in any manner limit the full use of a public accomodation by any person, or discriminate against such person with respect to the use of such accommodation, because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

It shall be an unlawful practice for any person directly or indirectly to advertise or otherwise publicize that any person is unwelcome to the full use of any public accommodation because of the race, color, disability, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The designation of a public accomodation for the exclusive or preferential use of the elderly or the disabled.
- b. The designation of a restroom or of a privately-owned athletic or exercise facility for the exclusive or preferential use of members of a single sex.
- c. The advertisement of a public accomodation as being for the preferential use of persons of a particular sex, age, religious creed, national origin or ancestry, sexual orientation, marital status, family status, or military status, provided such preference is not advertised as or implied to be a requirement for entry or use of such public accommodation.

(14.) It shall be an unlawful practice for any person to harass, intimidate, threaten, assault, or otherwise discriminate against any person in or upon any public accommodation because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, or attempt to do so.

(15.) It shall be an unlawful practice for any person to commit any act forbidden by this Ordinance for any reason that would not have been asserted, wholly or partially, but for the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of any person.

(16.) It shall be an unlawful practice for any person to aid, abet, incite, compel, coerce, or conspire to the commission of any of the acts forbidden by this Ordinance or to attempt to do so.

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- (17.) It shall be an unlawful practice for any person to discharge, expel, evict, harass, retaliate in any manner or otherwise take action against any person because such person has opposed any act forbidden by this Ordinance or because such person has filed a complaint, testified, or assisted in any proceeding under this Ordinance.
- B. The Commission shall work cooperatively with federal, state, and city agencies, including, but not limited to the School Department and the Massachusetts Commission Against Discrimination, in developing materials, workshops, public presentations, and other educational resources designed to eliminate prejudice, intolerance, bigotry, and discrimination and to enlist the cooperation of the various racial, religious, and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations and other groups to further the intent and purposes of this Ordinance.
- C. The function of the Commission shall be to implement the policy of this Ordinance by receiving and investigating complaints of discrimination, initiating its own investigations of discrimination, mediating complaints, holding hearings, and presenting findings to the City Manager and/or government agencies such as the Massachusetts Commission Against Discrimination or the courts.

The Commission shall exercise its authority through the following powers and duties:

- (1.) To receive and investigate complaints and to initiate its own investigations of violations of this Ordinance.
- (2.) To transmit for filing with other government agencies copies of any and all complaints filed with the Commission, or which the Commission is otherwise aware, that relate to acts of discrimination under the jurisdiction of such agencies.
- (3.) To attempt by mediation to resolve any discrimination complaint over which it has jurisdiction and to recommend to all appropriate government agencies such action as it feels will resolve any such complaint and, if deemed expedient, to hold hearings, summons witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any relevant evidence. The power to summons witnesses as herein defined shall be limited to those powers and procedures set forth in Chapter 233, Section 8 of the Massachusetts General Laws. At any hearing before the Commission, or any committee thereof, a witness shall have the right to be advised and represented by counsel present during any such hearing.
- (4.) With respect to complaints not resolved by mediation, to file a complaint or report of its findings and recommendations with any court or government agency having jurisdiction over the matter in question; to seek or apply remedies as enumerated in Section 8D below; and in all cases urging and using its best efforts to bring about compliance with its recommendations.

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(5.) To seek or accept grants, gifts, or bequests to help finance its activities.

D. (1.) Any person or class of persons claiming to be aggrieved by an alleged violation of this Ordinance may make, sign, and file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed such violation and the particulars and other such information as may be required by the Commission. The Commission may also on its own motion issue a complaint, whenever it has reason to believe that any person has engaged in an unlawful practice in violation of this Ordinance.

No complaint shall be considered unless it is filed within one hundred eighty (180) days after the occurrence of the alleged unlawful practice, or unless it has been referred to the Commission by the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission after having been timely filed with either or both agencies.

The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar the complainant from seeking relief in any other administrative or judicial forum.

Nor shall filing or failing to file a complaint with other federal, state, or city agencies or courts bar the complainant from seeking relief through the Commission.

(2.) After the filing of any complaint, the Chairperson of the Commission shall designate the Executive Director or one or more of the Commissioners to oversee a prompt investigation thereof with the assistance of the staff of the Commission.

If such Commissioner(s) determine after such investigation that no probable cause exists for crediting the allegations of the complaint, they shall promptly file a report of such findings with the Commission, which shall determine whether or not to dismiss the complaint. The Commission shall, within ten days from such determination, notify the complainant in writing of such determination.

If such Commissioner(s) determine after such investigations that probable cause does exist for crediting the allegations of the complaint or if the Commission so determines, notwithstanding a negative report from such Commissioner(s), the Commission shall forthwith endeavor by conference, conciliation, and persuasion to eliminate the unlawful practice. The Commission and its staff shall not disclose what has occurred in the course of such endeavors except to disclose the terms of conciliation when the complaint has been disposed of in this manner.

(3.) In the case of failure to eliminate an alleged unlawful practice by the process of mediator or after ninety (90) days have passed from commencement of mediation, or if probable cause exists that a conciliation agreement has been violated, the Commission shall issue and serve in its

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name a written notice, together with a copy of the complaint, requiring the person named in the complaint (hereinafter called "the respondent") to answer the charges of the complaint at a hearing of the Commission at a reasonable time and place specified in such notice. The respondent may file a written verified answer to the complaint and appear at such hearing in person, with or without counsel, and submit testimony. The Commission may designate a staff member to present evidence on behalf of the complainant or may permit the complainant to do so himself or herself or by counsel. The Commission shall not be bound by the strict rules of evidence prevailing in the courts. The testimony taken at the hearing shall be under oath and recorded, and shall be transcribed at the request of any party.

- (4.) If, upon all the evidence, the Commission shall find that a respondent has not engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to said respondent.

If, upon all the evidence, the Commission shall find that a respondent has engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall forthwith seek relief through one or more of the following actions:

- a. File a criminal complaint against the respondent in the Cambridge District Court or in the district court for the judicial district in which the respondent resides, seeking fines of up to Three Hundred Dollars (\$300), or the maximum under State law, for each such violation.
- b. Levy a civil fine of up to Three Hundred Dollars (\$300) for each such violation.
- c. File a complaint against the respondent in Superior Court seeking injunctive relief, including a temporary restraining order; or
- d. File a complaint against the respondent in a court of appropriate jurisdiction seeking the award to the complainant of damages, expenses, punitive damages, and other relief, as appropriate.

The Commission may be represented in court by the City Solicitor or by its own attorneys.

- e. The Commission shall receive and investigate complaints of and initiate its own investigation of the following activities and unlawful practices:
 9. A. Any practice that by design or effect discriminates against individuals, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is of public concern, as such discrimination creates strife, hostility and unrest, threatens or impairs the rights and privileges of individuals and deprives individuals of the benefits of a free and open society. Discrimination that deprives individuals of equal opportunities is unjust and results in serious injury to the public safety, health, and welfare of this City.

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Accordingly, it is the policy of the City of Cambridge to safeguard the equal opportunities of all individuals in the City in accordance with their abilities, regardless of their race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income and to prevent discrimination against such individuals in the provision of city services and in employment, housing and real estate, education, credit, bonding, insurance, and public accommodations.

Further, it is the policy of the City to encourage harmony and mutual respect among its inhabitants and visitors and to reduce tensions and strife caused by discrimination.

- B. The provisions of this Ordinance shall be construed liberally for the accomplishment of the purposes hereof, and any ordinances or portions thereof inconsistent with any provisions hereof shall not apply.

This Ordinance shall be deemed an exercise of the police power of the City of Cambridge for the protection of the public safety, health, prosperity, and welfare.

- C. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by the laws of the federal government or of this Commonwealth.

Nothing in this Ordinance shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the Commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this Ordinance.

Any remedies provided by this Ordinance shall be cumulative with any other remedies provided by local, state, or federal law.

- D. Should any Section, provision, paragraph, sentence, or word of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the portion so declared to be invalid.

- E. As used in this Ordinance,

(1.) The term "age" shall mean the actual or supposed chronological age of an individual eighteen (18) years or older.

(2.) The term "bona fide occupational qualification" shall mean a valid consideration of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income that is a requirement for employment and has been certified as such by the Cambridge Human Rights Commission (herein referred to as "the Commission") or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws.

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- (3.) The term "disability" shall mean any actual or supposed physical or mental handicap of an individual, other than the state of being presently legally incompetent.
- (4.) The term "discrimination" shall mean a policy or practice that by design or effect segregates, creates unequal status, separates, or has a disproportionate impact on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.
- (5.) The term "educational facility" shall mean any person, whether organized for profit or not-for-profit, that hold itself out to the public as providing instruction in the arts, sciences, trades, or any other area of learning.
- (6.) The term "family status" shall mean the actual or supposed condition of having minor children living with the individual or not.
- (7.) The term "real estate transaction" shall mean any intercourse among any persons that involves a building, structure or portion thereof, or parcel of land, developed or undeveloped, whether privately owned or owned by a public agency, including the design, construction, alteration, repair, sale, lease, sublease, mortgage, rental, or other provision, term, or offer of the same.
- (8.) The term "labor organization" shall mean any association, regardless of its form of organization, or employees or persons involved in similar trades or industries for the purpose of collective bargaining, resolving grievances in the terms and conditions of employment, or any other mutual aid or protection.
- (9.) The term "marital status" shall mean the actual or supposed state of being or having been married, separated, or divorced, or not.
- (10.) The term "military status" shall mean the actual or supposed condition of being or having been in the service of the military, or not.
- (11.) The term "public accommodation" shall mean any place or site, business or other establishment, or medium of communication, whether owned privately or by a public agency, that is intended for the patronage or use or convenience, whether for a charge or fee or not, of the general public, including but not limited to, inns, hotels, motels, roadhouses, trailer parks, campsites, any place where food or beverage is sold, retail stores, shopping malls, dispensaries, clinics, hospitals, rest homes, nursing homes, hospices, physicians' offices or other medical facilities, rest rooms, bathhouses, parks, public grounds, gardens, theaters, lecture halls, newspapers and magazines and other publications, barber shops, beauty parlors, motion picture houses, music halls, bowling alleys, amusement parks and arcades, skating rinks, ballparks, billiard and pool parlors, recreation parks, fairs, golf courses, gymnasiums, health clubs, shooting galleries, art galleries, libraries, laundries,

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garages, all public conveyances whether owned privately or by a public agency, transportation terminals and stations, public portions of buildings accommodating the public, clubs, societies, and social associations that are public or quasi-public, banks, finance companies, insurance companies, streets, and parking lots.

Nothing contained herein shall be construed to include or apply to any place of accommodation that is by its nature distinctly private, provided that where public use is permitted that use shall be covered by this section and further provided, that an establishment that has membership requirements but otherwise qualifies as a public accommodation shall be deemed a public accommodation for the purpose of this Ordinance if its membership requirements: i) consist only of the payment of fees or dues; ii) consist of requirements under which a substantial portion of the residents of or visitors to this city could qualify; or iii) consist primarily of a discrimination or exclusion based upon race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

- (12.) The term "religious creed" shall mean the actual or supposed faith, belief, or moral philosophy of an individual or the lack thereof.
- (13.) The term "sexual orientation" shall mean actual or supposed heterosexuality, homosexuality, or bisexuality.
- (14.) The term "source of income" shall mean the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents, excluding the use of criminal activities as a means of support.

In City Council September 24, 1984.

Passed to be ordained as amended by a yea and nay vote:-
Yeas 6; Nays 3; Absent 0.

Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.

15.



City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Four

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge".

Be it ordained by the City Council of the City of Cambridge as follows:

Insomuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E Charter.

There shall be a Commission known as the "Cambridge Human Rights Commission" to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council.

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter Twenty-Five entitled "Human Rights".

In City Council September 24, 1984.

Passed to be ordained as amended by a yea and nay vote: Yeas 6: Nays 3; Absent 0.

Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.

NOTE: Pursuant to the provisions of General Laws, Chapter 43, Section 23, Tercentenary Edition, being a part of the City Charter, the Ordinances as aforesaid, which exceed in length eight octavo pages of ordinary book print may be examined at the office of the City Clerk in the form of a printed pamphlet during office hours on or after August 20, 1984.

Paul E. Healy, City Clerk.



City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Four

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The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter Twenty-Five entitled "Human Rights".

In City Council September 24, 1984.

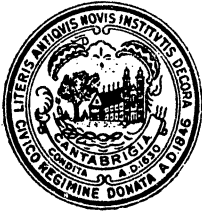
Passed to be ordained as amended by a yea and nay vote: Yeas 6; Nays 3; Absent 0.

Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.

NOTE: Pursuant to the provisions of General Laws, Chapter 43, Section 23, Tercentenary Edition, being a part of the City Charter, the Ordinances as aforesaid, which exceed in length eight octavo pages of ordinary book print may be examined at the office of the City Clerk in the form of a printed pamphlet during office hours on or after August 20, 1984.

Paul E. Healy, City Clerk.



City of Cambridge

In the Year One Thousand, Nine Hundred 84

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge.

Be it ordained by the City Council of the City of Cambridge as follows:

Inasmuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E Charter.

There shall be a Commission known as the Cambridge Human Rights Commission to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter 25 entitled "Human Rights" which reads as follows:

CHAPTER 25

HUMAN RIGHTS

1. There shall be a Cambridge Human Rights Commission consisting of eleven members, which may be altered by an amendment to this ordinance by the City Council

The Commission shall be considered a Department of the City, with all the rights and responsibilities thereof. The Executive Director of the Commission shall be considered the department head.

2. The members shall be appointed by the City Manager for terms of three years. Initial appointments shall be for the following terms: three members for a term of three years, four members for a period of two years, and four members for a period of one year. Any vacancy occurring other than by expiration of term shall be filled by appointment by the City Manager for the unexpired term.
3. A. Not less than two months prior to making such appointments, or re-appointments, the City Manager shall solicit nominations from as many public service groups and other sources which he deems appropriate as possible.

In keeping with the policy of the Cambridge City Council, the members of the Commission shall be representative of the population of the City of Cambridge. The Commission shall contain members of groups traditionally targets of discriminatory behavior.

- B. All members of the Commission shall be residents of the City of Cambridge when appointments are being made by the City Manager, and throughout their tenure.
- C. The Commission shall elect a chairperson from among its members. The chairperson shall be elected at the first meeting each year. The Commission members shall make an attempt to rotate the election of a chairperson each year thereafter.

Six (6) members shall constitute a quorum for the purpose of conducting the business of the Commission and all decisions shall be by majority vote of the Commission members present and voting.

The Commission shall adopt rules and regulations consistent with this Ordinance and the Law of the Commonwealth of Massachusetts to carry out the policy and provisions of this Ordinance and the powers and duties of the Commission in connection therewith. Said rules shall insure the due process rights of all persons involved in investigations and hearings.

All records of the Commission shall be public except as provided by state law.

Members of the Commission shall serve without compensation but reasonable per diem and necessary expense reimbursement shall be paid out of the budget of the Commission.

The Commissioners shall be classified as special municipal employees for the purposes of Chapter 268A of the Massachusetts General Laws.

- D. The Commission of Human Rights shall work with the City Manager and/or his assistants on matters pertaining to the human rights of Cambridge citizens. The main purpose for which this ordinance is enacted is to protect the human rights of all the citizens of Cambridge.
4. The Commission shall discuss human rights problem areas with the City Manager and make recommendations necessary to protect the human rights of all Cambridge citizens and employees.
 - A. The Commission shall request of the City Manager, department heads, and Superintendent of Schools, such information and staff support as is reasonable so that it may be properly informed.
 - B. The Commission may review and comment on all matters pertaining to the human rights of citizens. They may examine and scrutinize and comment on department budgets including the School Department budget.
 - C. The Commission shall, with the advice and consent of the City Manager, employ an Executive Director who shall be the executive officer of the Commission and shall be responsible for carrying out the policies and decisions of the Commission. The Commission may employ an Administrative Assistant or such other personnel as it may from time to time deem necessary.

The Commission shall, when appropriate, request the assistance of the staff and Commissions of the City engaged in related work, such as the Commission on the Status of Women, the Civic Unity Committee, the Commission on the Handicapped, the Fair Housing Office, the Affirmative Action Officer, the Consumers' Council, the Council on Aging, and the Veterans' Service Department, and shall at all times work cooperatively with these groups.

The Commission shall receive aid, advice, and opinions from the City Solicitor and the legal department, and be represented in court by the City Solicitor.

- D. The City Manager shall provide office space in City Hall to the Commission in order to give easy access to citizen complaints.
 - E. Each year, the Commission and the City Manager, together or separately, shall report to the City Council in writing as to the progress that is being made under this ordinance. These written reports may properly contain suggestions and recommendations which will further the aims of this ordinance.
5. The Commission may at any time question matters pertaining to Cambridge bona-fide residents who are faculty members and/or students of local schools and universities who are involved in Human Rights complaints.
 6. Any contract entered into by the City or the Cambridge Schools, or any of their agencies, departments, or subdivisions shall contain a covenant by the contractor and his or her subcontractors not to violate this Ordinance. Breach of this covenant shall be regarded as a material breach of the contract.

This Section shall not impair the obligation of any presently existing contract.

7. The City of Cambridge, every City contractor and subcontractor, every employer with one hundred (100) or more employees, every owner of an apartment building or housing complex of fifteen (15) or more units, every employment agency, every realtor and real estate agency, and every apartment or roommate service shall prominently post and keep posted the following notice at its place of business or in such apartment building or housing complex:

"Discrimination on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is unlawful in the City of Cambridge. Chapter 25, Cambridge City Code.

Cambridge Human Rights Commission

Cambridge, MA

The blanks in the model above shall be properly filled with the address and telephone number of the offices of the Commission.

It shall be a crime punishable by a fine of not more than fifty dollars (\$50) per violation to willfully violate this Section.

8. A. The Commission shall receive and investigate complaints of, and initiate its own investigation of the following activities and unlawful practices:
- (1.) Presence in the City of prejudice, intolerance, or bigotry, including but not limited to such matters as the choice of lifestyle and the consequences such attitudes in the community engender.
 - (2.) It shall be a crime punishable by a fine of not more than three hundred dollars (\$300), or the maximum under State Law, per violation to commit any unlawful practice under this Section 8.
 - (3.) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to discriminate against any person in the provision of services, facilities, employment, housing or real estate transactions, education, or other opportunities because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.
 - (4.) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to commit any act prohibited in this Ordinance which would be unlawful if committed by a private person.
 - (5.) It shall be an unlawful practice to deny any person or group equal access to city services in employment, housing, education, recreation, or other areas where such denial is based on limited English language skills.

- (6.) It shall be an unlawful practice for an employer directly or indirectly to refuse to hire or employ or to bar or to discharge from employment, training, or apprenticeship or to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment, training, or apprenticeship, because of the race, color, sex, age, religious creed, physical handicap, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification. An employer who asserts that a discriminatory practice is justified because of a bona fide occupational qualification that has not been certified as such by the Commission or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws, shall have the burden of showing i) that the discrimination is in fact a necessary result of a bona fide occupational qualification, and ii) that there exists no less discriminatory means of satisfying the occupational qualifications.

Reasonable accomodation shall be made to enable the employment or continued employment of a disabled person unless the employer can demonstrate that the extent of the accomodation required to meet the limitations of the person would impose an undue hardship or safety hazard to the employer's business.

The following practices shall be exempt from the operation of this Section:

- a. Employment practices of an employer of fewer than six (6) persons.
- b. Employment of an individual by his or her parent, child, or spouse.
- c. Employment by a religious institution of individuals performing a service related to a bona fide religious purpose.
- d. Employment of an individual for work within the home of the employer.
- e. Employment of an individual for the rendering of services to the person of the employer or his or her family.

The following practices shall not be deemed unlawful:

- f. Employment programs designed to effect affirmative action by giving special preference to women, racial minorities, or veterans provided that such employment programs shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- g. Employment limited to the elderly or disabled, provided that such employment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

- h. Observance by an employer of the conditions of a bona fide employee benefits system or plan (including, but not limited to, a contractual seniority system), provided that no such system or plan shall provide an excuse for failure to hire any individual.
- (7.) It shall be an unlawful practice for any employment agency directly or indirectly to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual. An employment agency that specializes in the recruitment and placement of elderly or disabled employees shall be exempt from the operation of this Section with respect to such specialized services, provided that such services shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- (8.) It shall be an unlawful practice for a labor organization directly or indirectly to refuse to admit to membership, training, apprenticeship, or classification or to otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual.
- (9.) It shall be an unlawful practice for an employer, employment agency, or labor organization directly or indirectly to advertise or otherwise publicize that any individual is unwelcome or not employable because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification or one of the exceptions set forth in Sections 8A(6), 8A(7), or 8A(8).
- (10.) It shall be an unlawful practice for any person directly or indirectly to refuse to engage in a real estate transaction with any person or to set discriminatory terms or conditions with respect to a real estate transaction with any person or to advertise or otherwise publicize that any person is unwelcome or may not enter into a real estate transaction because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person or of a person residing with such person.

This section does not create an affirmative duty to remove barriers for the disabled in excess of the requirements of existing laws and ordinances, but reasonable accommodation shall be made to enable the provision of housing for a handicapped person.

The following practices shall be exempt from the operation of this Section:

- a. The leasing or renting of a room or rooms within a dwelling or apartment which is occupied by the lessor as his or her residence and in which the roomer or boarder must pass through the space or a portion thereof occupied by such lessor in order to gain access to the room or rooms thus let or rented.
- b. The leasing or renting of a single apartment in a two-family dwelling, the other residential unit of which is occupied by the lessor as his or her residence.
- c. The leasing, rental, or other provision with or without fee or space within a church, temple, synagogue, religious school, or other facility used primarily for religious purposes.

The following practices shall not be deemed unlawful:

- d. The establishment of government-sponsored housing programs operated either directly by government agencies or indirectly through government subsidization and regulation, which programs are designed to assist the elderly, disabled, or economically disadvantaged individuals, provided that such programs shall not discriminate among the elderly, disabled, or economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - e. The establishment of housing set aside for or limited to the elderly or the disabled, provided that such establishment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - f. The establishment of same-sex dormitories or portions thereof by educational facilities, provided that such establishment shall not discriminate on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - g. The establishment of a hospital, convent, monastery, shelter, asylum, or residential facility for the care and lodging of persons in need of special medical, rehabilitative, social, or psychological support, including but not limited to half-way houses, drug treatment centers, detoxification facilities, shelters for the homeless, and the like.
- (11.) It shall be an unlawful practice for any bank, financial institution, or any other credit-granting or -approving institution or person, including a retail store that sells goods or services on credit, directly or indirectly to discriminate in the granting, reporting, approval, or extension of any form of loan or credit to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person. It shall not be an unlawful practice under this Section to establish or review the creditworthiness of any person by seeking information relevant to such creditworthiness as amount and source of income, age, employment history, credit references, and the number and age of dependents.

- (12.) It shall be an unlawful practice for any insurance company, insurance agent, or person engaged in the service of providing insurance to refuse to insure any person or discriminate in the terms of insuring any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, unless based on a bona fide actuarially determined insurance factor, such as the age or health of the person, that affects the risk for which insurance is being sought.

In accordance with Federal court cases, it is the intention of this section that actuarial data be gender-neutral.

- (13.) It shall be an unlawful practice for any bonding institution or person engaged in the service of providing financial and performance bonds to refuse to bond any person or discriminate in the terms of bonding because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.
- (14.) It shall be an unlawful practice for any educational facility directly or indirectly to fail or refuse to admit, or to curtail or terminate admission to, or to discriminate in the terms or conditions of educational services, programs, opportunities, or curriculum offered by it to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The establishment by an educational facility of minimum or maximum age requirements for any educational program, provided that such establishment shall not discriminate among the potential students on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- b. The selection of students by a religious educational facility that is limited exclusively or gives preference to members of such religion, provided that such selection shall not discriminate among the members of such religion on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- c. The maintenance or establishment by an education facility of a school or program limited to members of only one sex or otherwise segregated by sex, provided that such facility shall not discriminate among the members of such sex on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- d. Educational programs or policies designed to effect affirmative action by giving special preference to women, racial minorities, or veterans, provided that such programs or policies shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

- e. The establishment by an educational facility of special programs designed to assist or provide special training for the disabled, the elderly, individuals not fluent in English, or the economically disadvantaged. Provided that such selection shall not discriminate among the disabled, elderly, individuals not fluent in English, or the economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

(15.) It shall be an unlawful practice for any person directly or indirectly to withhold, deny, curtail, or in any manner limit the full use of a public accommodation by any person, or discriminate against such person with respect to the use of such accommodation, because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

It shall be an unlawful practice for any person directly or indirectly to advertise or otherwise publicize that any person is unwelcome to the full use of any public accommodation because of the race, color, disability, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The designation of a public accommodation for the exclusive or preferential use of the elderly or the disabled.
- b. The designation of a restroom or of a privately-owned athletic or exercise facility for the exclusive or preferential use of members of a single sex.
- c. The advertisement of a public accommodation as being for the preferential use of persons of a particular sex, age, religious creed, national origin or ancestry, sexual orientation, marital status, family status, or military status, provided such preference is not advertised as or implied to be a requirement for entry or use of such public accommodation.

(16.) It shall be an unlawful practice for any person to harass, intimidate, threaten, assault, or otherwise discriminate against any person in or upon any public accommodation because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, or attempt to do so.

(17.) It shall be an unlawful practice for any person to commit any act forbidden by this Ordinance for any reason that would not have been asserted, wholly or partially, but for the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of any person.

(18.) It shall be an unlawful practice for any person to aid, abet, incite, compel, coerce, or conspire to the commission of any of the acts forbidden by this Ordinance or to attempt to do so.

- (19.) It shall be an unlawful practice for any person to discharge, expel, evict, harass, retaliate in any manner or otherwise take action against any person because such person has opposed any act forbidden by this Ordinance or because such person has filed a complaint, testified, or assisted in any proceeding under this Ordinance.
- B. The Commission shall work cooperatively with federal, state, and city agencies, including, but not limited to the School Department and the Massachusetts Commission Against Discrimination, in developing materials, workshops, public presentations, and other educational resources designed to eliminate prejudice, intolerance, bigotry, and discrimination and to enlist the cooperation of the various racial, religious, and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations and other groups to further the intent and purposes of this Ordinance.
- C. The function of the Commission shall be to implement the policy of this Ordinance by receiving and investigating complaints of discrimination, initiating its own investigations of discrimination, mediating complaints, holding hearings, and presenting findings to the City Manager and/or government agencies such as the Massachusetts Commission Against Discrimination or the courts.

The Commission shall exercise its authority through the following powers and duties:

- (1.) To receive and investigate complaints and to initiate its own investigations of violations of this Ordinance.
- (2.) To transmit for filing with other government agencies copies of any and all complaints filed with the Commission, or which the Commission is otherwise aware, that relate to acts of discrimination under the jurisdiction of such agencies.
- (3.) To attempt by mediation to resolve any discrimination complaint over which it has jurisdiction and to recommend to all appropriate government agencies such action as it feels will resolve any such complaint and, if deemed expedient, to hold hearings, summons, witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any relevant evidence. The power to summons witnesses as herein defined shall be limited to those powers and procedures set forth in Chapter 233, Section 8 of the Massachusetts General Laws. At any hearing before the Commission, or any committee thereof, a witness shall have the right to be advised and represented by counsel present during any such hearing.
- (4.) With respect to complaints not resolved by mediation, to file a complaint or report of its findings and recommendations with any court or government agency having jurisdiction over the matter in question; to seek or apply remedies as enumerated in Section 8D below; and in all cases urging and using its best efforts to bring about compliance with its recommendations.

(5.) To seek or accept grants, gifts, or bequests to help finance its activities.

- D. (1.) Any person or class of persons claiming to be aggrieved by an alleged violation of this Ordinance may make, sign, and file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed such violation and the particulars and other such information as may be required by the Commission. The Commission may also on its own motion issue a complaint, whenever it has reason to believe that any person has engaged in an unlawful practice in violation of this Ordinance.

No complaint shall be considered unless it is filed within one hundred eighty (180) days after the occurrence of the alleged unlawful practice, or unless it has been referred to the Commission by the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission after having been timely filed with either or both agencies.

The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar the complainant from seeking relief by means of a civil action filed in the Cambridge District Court, or the district court for the judicial district in which the respondent resides, or any other court of competent jurisdiction.

Nor shall finding or failing to file a complaint with other federal, state, or city agencies or courts bar the complainant from seeking relief through the Commission.

- (2.) After the filing of any complaint, the Chairperson of the Commission shall designate the Executive Director or one or more of the Commissioners to oversee a prompt investigation thereof with the assistance of the staff of the Commission.

If such Commissioner(s) determine after such investigation that no probable cause exists for crediting the allegations of the complaint, they shall promptly file a report of such findings with the Commission, which shall determine whether or not to dismiss the complaint. The Commission shall, within ten days from such determination, notify the complainant in writing of such determination.

If such Commissioner(s) determine after such investigations that probable cause does exist for crediting the allegations of the complaint or if the Commission so determines, notwithstanding a negative report from such Commissioner(s), the Commission shall forthwith endeavor by conference, conciliation, and persuasion to eliminate the unlawful practice. The Commission and its staff shall not disclose what has occurred in the course of such endeavors except to disclose the terms of conciliation when the complaint has been disposed of in this manner.

- (3.) In the case of failure to eliminate an alleged unlawful practice by the process of mediation or after ninety (90) days have passed from commencement of mediation, or if probable cause exists that a conciliation agreement has been violated, the Commission shall issue and serve in its

name a written notice, together with a copy of the complaint, requiring the person named in the complaint (hereinafter called "the respondent") to answer the charges of the complaint at a hearing of the Commission at a reasonable time and place specified in such notice. The respondent may file a written verified answer to the complaint and appear at such hearing in person, with or without counsel, and submit testimony. The Commission may designate a staff member to present evidence on behalf of the complainant or may permit the complainant to do so himself or herself or by counsel. The Commission shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and recorded, and shall be transcribed at the request of any party.

- (4.) If, upon all the evidence, the Commission shall find that a respondent has not engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to said respondent.

If, upon all the evidence, the Commission shall find that a respondent has engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall forthwith seek relief through one or more of the following actions:

- a. File a criminal complaint against the respondent in the Cambridge District Court or in the district court for the judicial district in which the respondent resides, seeking fines of up to Three Hundred (\$300), or the maximum under State law, for each such violation.
- b. Levy a fine on its own motion of up to Three Hundred Dollars (\$300), or the maximum under State law, for each such violation.
- c. File a complaint against the respondent in Superior Court seeking injunctive relief, including a temporary restraining order; or
- d. File a complaint against the respondent in a court of appropriate jurisdiction seeking the award to the complainant of damages, expenses, punitive damages, and other relief, as appropriate.

The Commission may be represented in court by the City Solicitor or by its own attorneys.

9. A. Any practice that by design or effect discriminates against individuals, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is of public concern, as such discrimination creates strife, hostility and unrest, threatens or impairs the rights and privileges of individuals and deprives individuals of the benefits of a free and open society. Discrimination that deprives individuals of equal opportunities is unjust and results in serious injury to the public safety, health, and welfare of this City.

Accordingly, it is the policy of the City of Cambridge to safeguard the equal opportunities of all individuals in the City in accordance with their abilities, regardless of their race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income and to prevent discrimination against such individuals in the provision of city services and in employment, housing and real estate, education, credit, bonding, insurance, and public accommodations.

Further, it is the policy of the City to encourage harmony and mutual respect among its inhabitants and visitors and to reduce tensions and strife caused by discrimination.

- B. The provisions of this Ordinance shall be construed liberally for the accomplishment of the purposes hereof, and any ordinances or portions thereof inconsistent with any provisions hereof shall not apply.

This Ordinance shall be deemed an exercise of the police power of the City of Cambridge for the protection of the public safety, health, prosperity, and welfare.

- C. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by the laws of the federal government or of this Commonwealth.

Nothing in this Ordinance shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the Commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this Ordinance.

Any remedies provided by this Ordinance shall be cumulative with any other remedies provided by local, state, or federal law.

- D. Should any Section, provision, paragraph, sentence, or word of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the portion so declared to be invalid.

- E. As used in this Ordinance,

(1.) The term "age" shall mean the actual or supposed chronological age of an individual eighteen (18) years or older.

(2.) The term "bona fide occupational qualification" shall mean a valid consideration of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income that is a requirement for employment and has been certified as such by the Cambridge Human Rights Commission (herein referred to as "the Commission") or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws.

- (3.) The term "disability" shall mean any actual or supposed physical or mental handicap of an individual, other than the state of being presently legally incompetent.
- (4.) The term "discrimination" shall mean a policy or practice that by design or effect segregates, creates unequal status, separates, or has a disproportionate impact on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.
- (5.) The term "educational facility" shall mean any person, whether organized for profit or not-for-profit, that hold itself out to the public as providing instruction in the arts, sciences, trades, or any other area of learning.
- (6.) The term "family status" shall mean the actual or supposed condition of having minor children living with the individual or not.
- (7.) The term "real estate transaction" shall mean any intercourse among any persons that involves a building, structure or portion thereof, or parcel of land, developed or undeveloped, whether privately owned or owned by a public agency, including the design, construction, alteration, repair, sale, lease, sublease, mortgage, rental, or other provision, term, or offer of the same.
- (8.) The term "labor organization" shall mean any association, regardless of its form of organization, or employees or persons involved in similar trades or industries for the purpose of collective bargaining, resolving grievances in the terms and conditions of employment, or any other mutual aid or protection.
- (9.) The term "marital status" shall mean the actual or supposed state of being or having been married, separated, or divorced, or not.
- (10.) The term "military status" shall mean the actual or supposed condition of being or having been in the service of the military, or not.
- (11.) The term "public accommodation" shall mean any place or site, business or other establishment, or medium of communication, whether owned privately or by a public agency, that is intended for the patronage or use or convenience, whether for a charge or fee or not, of the general public, including but not limited to, inns, hotels, motels, roadhouses, trailer parks, campsites, any place where food or beverage is sold, retail stores, shopping malls, dispensaries, clinics, hospitals, rest homes, nursing homes, hospices, physicians' offices or other medical facilities, rest rooms, bathhouses, parks, public grounds, gardens, theaters, lecture halls, newspapers and magazines and other publications, barber shops, beauty parlors, motion picture houses, music halls, bowling alleys, amusement parks and arcades, skating rinks, ballparks, billiard and pool parlors, recreation parks, fairs, golf courses, gymnasiums, health clubs, shooting galleries, art galleries, libraries, laundries,

garages, all public conveyances whether owned privately or by a public agency, transportation terminals and stations, public portions of buildings accommodating the public, clubs, societies, and social associations that are public or quasi-public, banks, finance companies, insurance companies, streets, and parking lots.

Nothing contained herein shall be construed to include or apply to any place of accommodation that is by its nature distinctly private, provided that where public use is permitted that use shall be covered by this section and further provided, that an establishment that has membership requirements but otherwise qualifies as a public accommodation shall be deemed a public accommodation for the purpose of this Ordinance if its membership requirements: i) consist only of the payment of fees or dues; ii) consist of requirements under which a substantial portion of the residents of or visitors to this city could qualify; or iii) consist primarily of a discrimination or exclusion based upon race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

- (12.) The term "religious creed" shall mean the actual or supposed faith, belief, or moral philosophy of an individual or the lack thereof.
- (13.) The term "sexual orientation" shall mean actual or supposed heterosexuality, homosexuality, or bisexually.
- (14.) The term "source of income" shall mean the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents, excluding the use of criminal activities as a means of support.



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

OFFICE OF
THE CITY CLERK

August 21, 1984

Mr. Joseph Cellucci, Commissioner
Inspectional Services Department
City Hall
Cambridge, MA

Dear Mr. Cellucci:

Enclosed you will find the following:

1. Proposed amendment to the General Ordinances of the City of Cambridge by adding at the end thereof a new Chapter Twenty-Five entitled "Human Rights" which was passed to a second reading at the City Council meeting held on August 15, 1984.
2. Proposed amendment to the Zoning Ordinances of the City of Cambridge on the petition of Ann Haycox, et al which was passed to be ordained at the City Council meeting of August 15, 1984. - *Revised*
3. An order adopted by the City Council together with a proposed amendment to the General Ordinances of the City of Cambridge in Chapter Twenty-Three entitled "Regulations Pertaining to Controlled Rental Housing Units" which was passed to be ordained as amended at the City Council meeting of August 15, 1984.

This information is for your office files.

If you need any more information, please contact me.

Very truly yours,

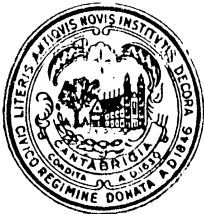
Paul E. Healy, City Clerk.

Joseph Cellucci

- 2 -

August 21, 1984

Encs. First publication no. 2256
Ordinance no. 1013 - *Revised*
Order for communication no. 42
Ordinance no. 1014.



City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Four

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Insomuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E. Charter.

There shall be a Commission known as the "Cambridge Human Rights Commission" to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council.

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter Twenty-Five entitled "Human Rights".

Passed to a second reading at the City Council meeting held on August 15, 1984 and on or after September 3, 1984 the question comes on passing to be ordained.

ATTEST:- Paul E. Healy, City Clerk.

NOTE: Pursuant to the provisions of General Laws, Chapter 43, Section 23, Tercentenary Edition, being a part of the City Charter, the Ordinances as aforesaid, which exceed in length eight octavo pages of ordinary book print may be examined at the office of the City Council in the form of a printed pamphlet during office hours on or after August 20, 1984.

Paul E. Healy, City Clerk.



City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Four

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Insomuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E. Charter.

There shall be a Commission known as the "Cambridge Human Rights Commission" to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council.

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter Twenty-Five entitled "Human Rights".

Passed to a second reading at the City Council meeting held on August 15, 1984 and on or after September 3, 1984 the question comes on passing to be ordained.

ATTEST:- Paul E. Healy, City Clerk.

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Paul E. Healy, City Clerk.



City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Four

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Insomuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E. Charter.

There shall be a Commission known as the "Cambridge Human Rights Commission" to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council.

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter Twenty-Five entitled "Human Rights".

Passed to a second reading at the City Council meeting held on August 15, 1984 and on or after September 3, 1984 the question comes on passing to be ordained.

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Paul E. Healy, City Clerk.



City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Four

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Insomuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E. Charter.

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Passed to a second reading at the City Council meeting held on August 15, 1984 and on or after September 3, 1984 the question comes on passing to be ordained.

ATTEST:- Paul E. Healy, City Clerk.

NOTE: Pursuant to the provisions of General Laws, Chapter 43, Section 23, Tercentenary Edition, being a part of the City Charter, the Ordinances as aforesaid, which exceed in length eight octavo pages of ordinary book print may be examined at the office of the City Council in the form of a printed pamphlet during office hours on or after August 20, 1984.

Paul E. Healy, City Clerk.



City of Cambridge

In the Year One Thousand, Nine Hundred 84

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge.

Be it ordained by the City Council of the City of Cambridge as follows:

Inasmuch, as the City Manager has the power of Chief Administrator over all departments under Chapter 43 Section 104 and department heads have powers under Chapter 43 Section 105 of the City of Cambridge Plan E Charter.

There shall be a Commission known as the Cambridge Human Rights Commission to protect all Human Rights of all citizens in the City of Cambridge, and shall be appointed by the City Manager with notification to the City Council

The Code of the City of Cambridge is hereby amended by adding at the end thereof a new Chapter 25 entitled "Human Rights" which reads as follows:

CHAPTER 25

HUMAN RIGHTS

1. There shall be a Cambridge Human Rights Commission consisting of eleven members, which may be altered by an amendment to this ordinance by the City Council

The Commission shall be considered a Department of the City, with all the rights and responsibilities thereof. The Executive Director of the Commission shall be considered the department head.

2. The members shall be appointed by the City Manager for terms of three years. Initial appointments shall be for the following terms: three members for a term of three years, four members for a period of two years, and four members for a period of one year. Any vacancy occurring other than by expiration of term shall be filled by appointment by the City Manager for the unexpired term.
3. A. Not less than two months prior to making such appointments, or re-appointments, the City Manager shall solicit nominations from as many public service groups and other sources which he deems appropriate as possible.

In keeping with the policy of the Cambridge City Council, the members of the Commission shall be representative of the population of the City of Cambridge. The Commission shall contain members of groups traditionally targets of discriminatory behavior.

- B. All members of the Commission shall be residents of the City of Cambridge when appointments are being made by the City Manager, and throughout their tenure.
- C. The Commission shall elect a chairperson from among its members. The chairperson shall be elected at the first meeting each year. The Commission members shall make an attempt to rotate the election of a chairperson each year thereafter.

Six (6) members shall constitute a quorum for the purpose of conducting the business of the Commission and all decisions shall be by majority vote of the Commission members present and voting.

The Commission shall adopt rules and regulations consistent with this Ordinance and the Law of the Commonwealth of Massachusetts to carry out the policy and provisions of this Ordinance and the powers and duties of the Commission in connection therewith. Said rules shall insure the due process rights of all persons involved in investigations and hearings.

All records of the Commission shall be public except as provided by state law.

Members of the Commission shall serve without compensation but reasonable per diem and necessary expense reimbursement shall be paid out of the budget of the Commission.

The Commissioners shall be classified as special municipal employees for the purposes of Chapter 268A of the Massachusetts General Laws.

- D. The Commission of Human Rights shall work with the City Manager and/or his assistants on matters pertaining to the human rights of Cambridge citizens. The main purpose for which this ordinance is enacted is to protect the human rights of all the citizens of Cambridge.
4. The Commission shall discuss human rights problem areas with the City Manager and make recommendations necessary to protect the human rights of all Cambridge citizens and employees.
 - A. The Commission shall request of the City Manager, department heads, and Superintendent of Schools, such information and staff support as is reasonable so that it may be properly informed.
 - B. The Commission may review and comment on all matters pertaining to the human rights of citizens. They may examine and scrutinize and comment on department budgets including the School Department budget.
 - C. The Commission shall, with the advice and consent of the City Manager, employ an Executive Director who shall be the executive officer of the Commission and shall be responsible for carrying out the policies and decisions of the Commission. The Commission may employ an Administrative Assistant or such other personnel as it may from time to time deem necessary.

The Commission shall, when appropriate, request the assistance of the staff and Commissions of the City engaged in related work, such as the Commission on the Status of Women, the Civic Unity Committee, the Commission on the Handicapped, the Fair Housing Office, the Affirmative Action Officer, the Consumers' Council, the Council on Aging, and the Veterans' Service Department, and shall at all times work cooperatively with these groups.

The Commission shall receive aid, advice, and opinions from the City Solicitor and the legal department, and be represented in court by the City Solicitor.

- D. The City Manager shall provide office space in City Hall to the Commission in order to give easy access to citizen complaints.
 - E. Each year, the Commission and the City Manager, together or separately, shall report to the City Council in writing as to the progress that is being made under this ordinance. These written reports may properly contain suggestions and recommendations which will further the aims of this ordinance.
5. The Commission may at any time question matters pertaining to Cambridge bona-fide residents who are faculty members and/or students of local schools and universities who are involved in Human Rights complaints.
 6. Any contract entered into by the City or the Cambridge Schools, or any of their agencies, departments, or subdivisions shall contain a covenant by the contractor and his or her subcontractors not to violate this Ordinance. Breach of this covenant shall be regarded as a material breach of the contract.

This Section shall not impair the obligation of any presently existing contract.

7. The City of Cambridge, every City contractor and subcontractor, every employer with one hundred (100) or more employees, every owner of an apartment building or housing complex of fifteen (15) or more units, every employment agency, every realtor and real estate agency, and every apartment or roommate service shall prominently post and keep posted the following notice at its place of business or in such apartment building or housing complex:

"Discrimination on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is unlawful in the City of Cambridge. Chapter 25, Cambridge City Code.

Cambridge Human Rights Commission
Cambridge, MA

The blanks in the model above shall be properly filled with the address and telephone number of the offices of the Commission.

It shall be a crime punishable by a fine of not more than fifty dollars (\$50) per violation to willfully violate this Section.

8. A. The Commission shall receive and investigate complaints of, and initiate its own investigation of the following activities and unlawful practices:
- (1.) Presence in the City of prejudice, intolerance, or bigotry, including but not limited to such matters as the choice of lifestyle and the consequences such attitudes in the community engender.
 - (2.) It shall be a crime punishable by a fine of not more than three hundred dollars (\$300), or the maximum under State Law, per violation to commit any unlawful practice under this Section 8.
 - (3.) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to discriminate against any person in the provision of services, facilities, employment, housing or real estate transactions, education, or other opportunities because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.
 - (4.) It shall be an unlawful practice for the City or the Cambridge School Department, or any of their agencies, departments, subdivisions, or employees to commit any act prohibited in this Ordinance which would be unlawful if committed by a private person.
 - (5.) It shall be an unlawful practice to deny any person or group equal access to city services in employment, housing, education, recreation, or other areas where such denial is based on limited English language skills.

- (6.) It shall be an unlawful practice for an employer directly or indirectly to refuse to hire or employ or to bar or to discharge from employment, training, or apprenticeship or to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment, training, or apprenticeship, because of the race, color, sex, age, religious creed, physical handicap, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification. An employer who asserts that a discriminatory practice is justified because of a bona fide occupational qualification that has not been certified as such by the Commission or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws, shall have the burden of showing i) that the discrimination is in fact a necessary result of a bona fide occupational qualification, and ii) that there exists no less discriminatory means of satisfying the occupational qualifications.

Reasonable accomodation shall be made to enable the employment or continued employment of a disabled person unless the employer can demonstrate that the extent of the accomodation required to meet the limitations of the person would impose an undue hardship or safety hazard to the employer's business.

The following practices shall be exempt from the operation of this Section:

- a. Employment practices of an employer of fewer than six (6) persons.
- b. Employment of an individual by his or her parent, child, or spouse.
- c. Employment by a religious institution of individuals performing a service related to a bona fide religious purpose.
- d. Employment of an individual for work within the home of the employer.
- e. Employment of an individual for the rendering of services to the person of the employer or his or her family.

The following practices shall not be deemed unlawful:

- f. Employment programs designed to effect affirmative action by giving special preference to women, racial minorities, or veterans provided that such employment programs shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- g. Employment limited to the elderly or disabled, provided that such employment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

- h. Observance by an employer of the conditions of a bona fide employee benefits system or plan (including, but not limited to, a contractual seniority system), provided that no such system or plan shall provide an excuse for failure to hire any individual.
- (7.) It shall be an unlawful practice for any employment agency directly or indirectly to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual. An employment agency that specializes in the recruitment and placement of elderly or disabled employees shall be exempt from the operation of this Section with respect to such specialized services, provided that such services shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- (8.) It shall be an unlawful practice for a labor organization directly or indirectly to refuse to admit to membership, training, apprenticeship, or classification or to otherwise discriminate against any individual because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual.
- (9.) It shall be an unlawful practice for an employer, employment agency, or labor organization directly or indirectly to advertise or otherwise publicize that any individual is unwelcome or not employable because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such individual, unless based on a bona fide occupational qualification or one of the exceptions set forth in Sections 8A(6), 8A(7), or 8A(8).
- (10.) It shall be an unlawful practice for any person directly or indirectly to refuse to engage in a real estate transaction with any person or to set discriminatory terms or conditions with respect to a real estate transaction with any person or to advertise or otherwise publicize that any person is unwelcome or may not enter into a real estate transaction because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person or of a person residing with such person.

This section does not create an affirmative duty to remove barriers for the disabled in excess of the requirements of existing laws and ordinances, but reasonable accommodation shall be made to enable the provision of housing for a handicapped person.

The following practices shall be exempt from the operation of this Section:

- a. The leasing or renting of a room or rooms within a dwelling or apartment which is occupied by the lessor as his or her residence and in which the roomer or boarder must pass through the space or a portion thereof occupied by such lessor in order to gain access to the room or rooms thus let or rented.
- b. The leasing or renting of a single apartment in a two-family dwelling, the other residential unit of which is occupied by the lessor as his or her residence.
- c. The leasing, rental, or other provision with or without fee or space within a church, temple, synagogue, religious school, or other facility used primarily for religious purposes.

The following practices shall not be deemed unlawful:

- d. The establishment of government-sponsored housing programs operated either directly by government agencies or indirectly through government subsidization and regulation, which programs are designed to assist the elderly, disabled, or economically disadvantaged individuals, provided that such programs shall not discriminate among the elderly, disabled, or economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - e. The establishment of housing set aside for or limited to the elderly or the disabled, provided that such establishment shall not discriminate among the elderly or disabled on the basis of other discriminatory criteria as set forth in Section 9E.(4) hereof.
 - f. The establishment of same-sex dormitories or portions thereof by educational facilities, provided that such establishment shall not discriminate on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
 - g. The establishment of a hospital, convent, monastery, shelter, asylum, or residential facility for the care and lodging of persons in need of special medical, rehabilitative, social, or psychological support, including but not limited to half-way houses, drug treatment centers, detoxification facilities, shelters for the homeless, and the like.
- (11.) It shall be an unlawful practice for any bank, financial institution, or any other credit-granting or -approving institution or person, including a retail store that sells goods or services on credit, directly or indirectly to discriminate in the granting, reporting, approval, or extension of any form of loan or credit to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person. It shall not be an unlawful practice under this Section to establish or review the creditworthiness of any person by seeking information relevant to such creditworthiness as amount and source of income, age, employment history, credit references, and the number and age of dependents.

- (12.) It shall be an unlawful practice for any insurance company, insurance agent, or person engaged in the service of providing insurance to refuse to insure any person or discriminate in the terms of insuring any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, unless based on a bona fide actuarially determined insurance factor, such as the age or health of the person, that affects the risk for which insurance is being sought.

In accordance with Federal court cases, it is the intention of this section that actuarial data be gender-neutral.

- (13.) It shall be an unlawful practice for any bonding institution or person engaged in the service of providing financial and performance bonds to refuse to bond any person or discriminate in the terms of bonding because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.
- (14.) It shall be an unlawful practice for any educational facility directly or indirectly to fail or refuse to admit, or to curtail or terminate admission to, or to discriminate in the terms or conditions of educational services, programs, opportunities, or curriculum offered by it to any person because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The establishment by an educational facility of minimum or maximum age requirements for any educational program, provided that such establishment shall not discriminate among the potential students on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- b. The selection of students by a religious educational facility that is limited exclusively or gives preference to members of such religion, provided that such selection shall not discriminate among the members of such religion on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- c. The maintenance or establishment by an education facility of a school or program limited to members of only one sex or otherwise segregated by sex, provided that such facility shall not discriminate among the members of such sex on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.
- d. Educational programs or policies designed to effect affirmative action by giving special preference to women, racial minorities, or veterans, provided that such programs or policies shall not discriminate among women, racial minorities, or veterans on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

- e. The establishment by an educational facility of special programs designed to assist or provide special training for the disabled, the elderly, individuals not fluent in English, or the economically disadvantaged. Provided that such selection shall not discriminate among the disabled, elderly, individuals not fluent in English, or the economically disadvantaged on the basis of other discriminatory criteria as set forth in Section 9E (4) hereof.

(15.) It shall be an unlawful practice for any person directly or indirectly to withhold, deny, curtail, or in any manner limit the full use of a public accommodation by any person, or discriminate against such person with respect to the use of such accommodation, because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person.

It shall be an unlawful practice for any person directly or indirectly to advertise or otherwise publicize that any person is unwelcome to the full use of any public accommodation because of the race, color, disability, or source of income of such person.

The following practices shall not be deemed unlawful:

- a. The designation of a public accommodation for the exclusive or preferential use of the elderly or the disabled.
- b. The designation of a restroom or of a privately-owned athletic or exercise facility for the exclusive or preferential use of members of a single sex.
- c. The advertisement of a public accommodation as being for the preferential use of persons of a particular sex, age, religious creed, national origin or ancestry, sexual orientation, marital status, family status, or military status, provided such preference is not advertised as or implied to be a requirement for entry or use of such public accommodation.

(16.) It shall be an unlawful practice for any person to harass, intimidate, threaten, assault, or otherwise discriminate against any person in or upon any public accommodation because of the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of such person, or attempt to do so.

(17.) It shall be an unlawful practice for any person to commit any act forbidden by this Ordinance for any reason that would not have been asserted, wholly or partially, but for the race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income of any person.

(18.) It shall be an unlawful practice for any person to aid, abet, incite, compel, coerce, or conspire to the commission of any of the acts forbidden by this Ordinance or to attempt to do so.

- (19.) It shall be an unlawful practice for any person to discharge, expel, evict, harass, retaliate in any manner or otherwise take action against any person because such person has opposed any act forbidden by this Ordinance or because such person has filed a complaint, testified, or assisted in any proceeding under this Ordinance.
- B. The Commission shall work cooperatively with federal, state, and city agencies, including, but not limited to the School Department and the Massachusetts Commission Against Discrimination, in developing materials, workshops, public presentations, and other educational resources designed to eliminate prejudice, intolerance, bigotry, and discrimination and to enlist the cooperation of the various racial, religious, and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations and other groups to further the intent and purposes of this Ordinance.
- C. The function of the Commission shall be to implement the policy of this Ordinance by receiving and investigating complaints of discrimination, initiating its own investigations of discrimination, mediating complaints, holding hearings, and presenting findings to the City Manager and/or government agencies such as the Massachusetts Commission Against Discrimination or the courts.

The Commission shall exercise its authority through the following powers and duties:

- (1.) To receive and investigate complaints and to initiate its own investigations of violations of this Ordinance.
- (2.) To transmit for filing with other government agencies copies of any and all complaints filed with the Commission, or which the Commission is otherwise aware, that relate to acts of discrimination under the jurisdiction of such agencies.
- (3.) To attempt by mediation to resolve any discrimination complaint over which it has jurisdiction and to recommend to all appropriate government agencies such action as it feels will resolve any such complaint and, if deemed expedient, to hold hearings, summons, witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any relevant evidence. The power to summons witnesses as herein defined shall be limited to those powers and procedures set forth in Chapter 233, Section 8 of the Massachusetts General Laws. At any hearing before the Commission, or any committee thereof, a witness shall have the right to be advised and represented by counsel present during any such hearing.
- (4.) With respect to complaints not resolved by mediation, to file a complaint or report of its findings and recommendations with any court or government agency having jurisdiction over the matter in question; to seek or apply remedies as enumerated in Section 8D. below; and in all cases urging and using its best efforts to bring about compliance with its recommendations.

- (5.) To seek or accept grants, gifts, or bequests to help finance its activities.
- D. (1.) Any person or class of persons claiming to be aggrieved by an alleged violation of this Ordinance may make, sign, and file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed such violation and the particulars and other such information as may be required by the Commission. The Commission may also on its own motion issue a complaint, whenever it has reason to believe that any person has engaged in an unlawful practice in violation of this Ordinance.

No complaint shall be considered unless it is filed within one hundred eighty (180) days after the occurrence of the alleged unlawful practice, or unless it has been referred to the Commission by the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission after having been timely filed with either or both agencies.

The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar the complainant from seeking relief by means of a civil action filed in the Cambridge District Court, or the district court for the judicial district in which the respondent resides, or any other court of competent jurisdiction.

Nor shall finding or failing to file a complaint with other federal, state, or city agencies or courts bar the complainant from seeking relief through the Commission.

- (2.) After the filing of any complaint, the Chairperson of the Commission shall designate the Executive Director or one or more of the Commissioners to oversee a prompt investigation thereof with the assistance of the staff of the Commission.

If such Commissioner(s) determine after such investigation that no probable cause exists for crediting the allegations of the complaint, they shall promptly file a report of such findings with the Commission, which shall determine whether or not to dismiss the complaint. The Commission shall, within ten days from such determination, notify the complainant in writing of such determination.

If such Commissioner(s) determine after such investigations that probable cause does exist for crediting the allegations of the complaint or if the Commission so determines, notwithstanding a negative report from such Commissioner(s), the Commission shall forthwith endeavor by conference, conciliation, and persuasion to eliminate the unlawful practice. The Commission and its staff shall not disclose what has occurred in the course of such endeavors except to disclose the terms of conciliation when the complaint has been disposed of in this manner.

- (3.) In the case of failure to eliminate an alleged unlawful practice by the process of mediation or after ninety (90) days have passed from commencement of mediation, or if probable cause exists that a conciliation agreement has been violated, the Commission shall issue and serve in its

name a written notice, together with a copy of the complaint, requiring the person named in the complaint (hereinafter called "the respondent") to answer the charges of the complaint at a hearing of the Commission at a reasonable time and place specified in such notice. The respondent may file a written verified answer to the complaint and appear at such hearing in person, with or without counsel, and submit testimony. The Commission may designate a staff member to present evidence on behalf of the complainant or may permit the complainant to do so himself or herself or by counsel. The Commission shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and recorded, and shall be transcribed at the request of any party.

- (4.) If, upon all the evidence, the Commission shall find that a respondent has not engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to said respondent.

If, upon all the evidence, the Commission shall find that a respondent has engaged in any unlawful practice or violation of this Ordinance, the Commission shall state its findings of fact and shall forthwith seek relief through one or more of the following actions:

- a. File a criminal complaint against the respondent in the Cambridge District Court or in the district court for the judicial district in which the respondent resides, seeking fines of up to Three Hundred (\$300), or the maximum under State law, for each such violation.
- b. Levy a fine on its own motion of up to Three Hundred Dollars (\$300), or the maximum under State law, for each such violation.
- c. File a complaint against the respondent in Superior Court seeking injunctive relief, including a temporary restraining order; or
- d. File a complaint against the respondent in a court of appropriate jurisdiction seeking the award to the complainant of damages, expenses, punitive damages, and other relief, as appropriate.

The Commission may be represented in court by the City Solicitor or by its own attorneys.

9. A. Any practice that by design or effect discriminates against individuals, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income is of public concern, as such discrimination creates strife, hostility and unrest, threatens or impairs the rights and privileges of individuals and deprives individuals of the benefits of a free and open society. Discrimination that deprives individuals of equal opportunities is unjust and results in serious injury to the public safety, health, and welfare of this City.

Accordingly, it is the policy of the City of Cambridge to safeguard the equal opportunities of all individuals in the City in accordance with their abilities, regardless of their race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income and to prevent discrimination against such individuals in the provision of city services and in employment, housing and real estate, education, credit, bonding, insurance, and public accommodations.

Further, it is the policy of the City to encourage harmony and mutual respect among its inhabitants and visitors and to reduce tensions and strife caused by discrimination.

- B. The provisions of this Ordinance shall be construed liberally for the accomplishment of the purposes hereof, and any ordinances or portions thereof inconsistent with any provisions hereof shall not apply.

This Ordinance shall be deemed an exercise of the police power of the City of Cambridge for the protection of the public safety, health, prosperity, and welfare.

- C. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by the laws of the federal government or of this Commonwealth.

Nothing in this Ordinance shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the Commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this Ordinance.

Any remedies provided by this Ordinance shall be cumulative with any other remedies provided by local, state, or federal law.

- D. Should any Section, provision, paragraph, sentence, or word of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the portion so declared to be invalid.

- E. As used in this Ordinance,

(1.) The term "age" shall mean the actual or supposed chronological age of an individual eighteen (18) years or older.

(2.) The term "bona fide occupational qualification" shall mean a valid consideration of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income that is a requirement for employment and has been certified as such by the Cambridge Human Rights Commission (herein referred to as "the Commission") or by the Massachusetts Commission Against Discrimination under Chapter 151B of the Massachusetts General Laws.

- (3.) The term "disability" shall mean any actual or supposed physical or mental handicap of an individual, other than the state of being presently legally incompetent.
- (4.) The term "discrimination" shall mean a policy or practice that by design or effect segregates, creates unequal status, separates, or has a disproportionate impact on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.
- (5.) The term "educational facility" shall mean any person, whether organized for profit or not-for-profit, that hold itself out to the public as providing instruction in the arts, sciences, trades, or any other area of learning.
- (6.) The term "family status" shall mean the actual or supposed condition of having minor children living with the individual or not.
- (7.) The term "real estate transaction" shall mean any intercourse among any persons that involves a building, structure or portion thereof, or parcel of land, developed or undeveloped, whether privately owned or owned by a public agency, including the design, construction, alteration, repair, sale, lease, sublease, mortgage, rental, or other provision, term, or offer of the same.
- (8.) The term "labor organization" shall mean any association, regardless of its form of organization, or employees or persons involved in similar trades or industries for the purpose of collective bargaining, resolving grievances in the terms and conditions of employment, or any other mutual aid or protection.
- (9.) The term "marital status" shall mean the actual or supposed state of being or having been married, separated, or divorced, or not.
- (10.) The term "military status" shall mean the actual or supposed condition of being or having been in the service of the military, or not.
- (11.) The term "public accommodation" shall mean any place or site, business or other establishment, or medium of communication, whether owned privately or by a public agency, that is intended for the patronage or use or convenience, whether for a charge or fee or not, of the general public, including but not limited to, inns, hotels, motels, roadhouses, trailer parks, campsites, any place where food or beverage is sold, retail stores, shopping malls, dispensaries, clinics, hospitals, rest homes, nursing homes, hospices, physicians' offices or other medical facilities, rest rooms, bathhouses, parks, public grounds, gardens, theaters, lecture halls, newspapers and magazines and other publications, barber shops, beauty parlors, motion picture houses, music halls, bowling alleys, amusement parks and arcades, skating rinks, ballparks, billiard and pool parlors, recreation parks, fairs, golf courses, gymnasiums, health clubs, shooting galleries, art galleries, libraries, laundries,

garages, all public conveyances whether owned privately or by a public agency, transportation terminals and stations, public portions of buildings accommodating the public, clubs, societies, and social associations that are public or quasi-public, banks, finance companies, insurance companies, streets, and parking lots.

Nothing contained herein shall be construed to include or apply to any place of accommodation that is by its nature distinctly private, provided that where public use is permitted that use shall be covered by this section and further provided, that an establishment that has membership requirements but otherwise qualifies as a public accommodation shall be deemed a public accommodation for the purpose of this Ordinance if its membership requirements: i) consist only of the payment of fees or dues; ii) consist of requirements under which a substantial portion of the residents of or visitors to this city could qualify; or iii) consist primarily of a discrimination or exclusion based upon race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

- (12.) The term "religious creed" shall mean the actual or supposed faith, belief, or moral philosophy of an individual or the lack thereof.
- (13.) The term "sexual orientation" shall mean actual or supposed heterosexuality, homosexuality, or bisexuality.
- (14.) The term "source of income" shall mean the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents, excluding the use of criminal activities as a means of support.

Order # 19 0-34

C. Vellucci order re: that the proposed Human Rights Ordinance as submitted by C. Vellucci be replaced by substitution of the attached proposed amendment to the General Ordinances to add a new Chapter 25 entitled "Human Rights"; said proposed substituted ordinance incorporating amendments offered by Councillors Wolf and David Sullivan.

9/24/84 Amended version
Passed to be
ordained
~~at~~ 6-3-0

See 0-33 also

In City Council,

August 15, 1984

8/15/84

LV
SUBSTITUTE version
Passed to End Reading