

CHAPTER 28

ANTI-DISCRIMINATION

ADMINISTRATION

28.005 Definitions. As used in BCC Chapter 28.

- (1) **“Gender identity”** includes the status of being transsexual or transgender.
- (2) **“Sexual orientation”** means actual or supposed perceived homosexuality, heterosexuality or bisexuality.
- (3) **“Source of income”** means the means by which a person supports himself or herself and his or her dependents, including but not limited to money and property from any occupation, profession or activity, from any contract, settlement or agreement, from federal or state payments, court-ordered payments, gifts, bequests, annuities, life insurance policies, and compensation for illness or injury, but excluding any money or property derived in a manner made illegal or criminal by any law, statute or ordinance.
- (4) All other terms used in BCC Chapter 28 are to be defined as in Oregon Revised Statutes Chapter 659 or Benton County Code Chapter 1. [Ord. 98-0139]

28.010 Purpose. The purpose of BCC Chapter 28 is to eliminate discrimination based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income. Such discrimination poses a threat to the health, safety and general welfare of the citizens of Benton County and menaces the institutions and foundation of our community. [Ord. 98-0139]

28.015 Intent. The intent of BCC Chapter 28 is that no person be denied the equal protection of the laws, nor shall any person be denied the enjoyment of his/her civil or political rights or be discriminated against because of race, color, religion, national origin, sex, age, condition of pregnancy, marital status, physical limitations, family responsibilities, educational association, source of income, gender identity, sexual orientation or affectional preferences. Nothing herein contained shall be construed to prohibit any affirmative laws passed by any level of government. [Ord. 98-0139]

28.020 Exceptions.

- (1) The prohibitions in BCC Chapter 28 against discriminating on the basis of sexual orientation do not apply:
 - (a) To the leasing or renting of a room or rooms within an individual living unit which is occupied by the lessor as his or her residence;

(b) To dwellings with not more than two individual living units where one of the units is owner occupied.

(c) To bona fide church or sectarian religious organizations, including churches, temples, synagogues, religious schools or other facilities used primarily for religious purposes.

(2) The prohibitions of BCC Chapter 28 against discriminating on the basis of source of income do not prohibit:

(a) Inquiry into and verification of a source or amount of income;

(b) Inquiry into, evaluation of, and decisions based on the amount, stability, security or creditworthiness of any source of income;

(c) Screening prospective purchasers and tenants on bases not specifically prohibited by BCC Chapter 28 or state or federal law.

(d) Refusal to contract with a governmental agency under 42. U.S.C. §1437f(a) "Section 8". [Ord. 98-0139]

28.025 Enforcement.

(1) Enforcement of all or any part of BCC Chapter 28 shall be governed by the procedures established in ORS Chapter 659. Rules adopted by the County Attorney pursuant to BCC Chapter 28 may also be used to implement enforcement and administration of BCC Chapter 28.

(2) Any person claiming to be aggrieved by an unlawful employment practice under BCC Chapter 28 may file a complaint with the Commissioner of the Bureau of Labor and Industries under procedures established in ORS 659.040, and any person claiming to be aggrieved by an unlawful practice under BCC Chapter 28 relating to selling, renting or leasing real estate or discrimination in public accommodations, may file a complaint with the Commissioner under procedures established in ORS 659.045.

(3) The Commissioner may then proceed and shall have the same enforcement powers under BCC Chapter 28, and if the complaint is found to be justified, the complainant shall be entitled to the same remedies under ORS 659.050 to 659.085 as in the case of any other complaint filed under ORS 659.040 or 659.045

(4) Any order issued by the Commissioner of the Bureau of Labor and Industries under BCC Chapter 28 shall be viewed as one issued by a hearings officer employed by the County within the meaning of ORS 46.045(3) and shall be fully enforceable by the County.

(5) Any person claiming to be aggrieved by an unlawful discriminatory act under the provisions of this code shall have a cause of action in any court of competent jurisdiction for damages and such other remedies as may be appropriate. Election of remedies and other procedural issues relating to the interplay between administrative proceedings and private rights of action shall be handled as provided for in ORS 659.095 and 659.121. The court may grant such relief as it deems appropriate, including but not limited to such relief as is provided in ORS 659.121. [Ord. 98-0139]

28.030 Authority of the County Attorney to Adopt Rules.

(1) The County Attorney is hereby authorized to adopt rules, procedures and forms to assist in the implementation of the provisions of BCC Chapter 28.

(2) Any rule adopted pursuant to this Section shall require a public review process. Not less than ten (10) nor more than thirty (30) days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time and purpose of the public review process and the location at which copies of the full text of the proposed rules may be obtained.

(3) During the public review, a designee of the County Attorney shall hear testimony or receive written comment concerning the proposed rules. The County Attorney shall review the recommendation of his or her designee, taking into consideration the comments received during the public review process, and shall either adopt the proposal, modify or reject it. If a substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the hearing at which the original comments are received.

(4) Unless otherwise stated, all rules shall be effective upon adoption by the County Attorney and shall be filed in the office of the Board of Commissioners.

(5) Notwithstanding paragraphs 2) and 3) of this Section, an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties. The finding shall state the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than 180 days. [Ord. 98-0139]

28.035 Construction. BCC Chapter 28 shall be broadly construed, consistent with its remedial purpose. [Ord. 98-0139]

28.040 Severability of Provisions. If any party or provision of BCC Chapter 28, or application thereof to any person or circumstance, is held invalid, the remainder of BCC Chapter 28 and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of BCC Chapter 28 are severable. [Ord. 98-0139]

PROHIBITIONS

28.105 Discrimination in Employment Prohibited.

(1) It shall be an unlawful employment practice for an employer to discriminate on the basis of an individual's race, religion, color, sex, national origin, marital status, age if the individual is 18 years of age or older, or disability, by committing any of the acts made unlawful under the provisions of ORS 659.030 and 659.425.

(2) In addition, it shall be an unlawful employment practice for an employer to discriminate on the basis of an individual's sexual orientation, source of income, gender identity or familial status, by committing against any such individual any of the acts already made unlawful under ORS 659.030 when committed against the categories of persons listed herein. [Ord. 98-0139]

28.110 Discrimination in selling, renting, or leasing real property prohibited.

(1) It shall be unlawful to discriminate in selling, renting or leasing real property on the basis of an individual's race, religion, color, sex, national origin, marital status, familial status, or disability, by committing any of the acts made unlawful under the provisions of ORS 659.033 and 659.430.

(2) In addition, it shall be unlawful to discriminate in selling, renting or leasing real property on the basis of an individual's sexual orientation, gender identity, source of income, or age if the individual is 18 years of age or older except as is excluded in ORS 659.033 subsection 6(a) and (b), by committing against any such individual any of the acts already made unlawful under ORS 659.033 when committed against the categories of persons listed therein. [Ord. 98-0139]

28.115 Discrimination in Places of Public Accommodation Prohibited.

(1) It shall be unlawful to discriminate in public accommodations on the basis of an individual's race, religion, color, sex, national origin, marital status, age if the individuals is 18 years of age or older, or disability, by committing any of the acts made unlawful under the provisions of ORS 659.037, 659.425, or ORS 30.670 to 30.685.

(2) In addition, it shall be unlawful in public accommodations to discriminate on the basis of an individual's sexual orientation, gender identity, source of income or familial status, by committing against any such individual any of the acts already made unlawful under ORS 659.037 or ORS 30.670 to 30.685 when committed against the categories of persons listed therein. [Ord. 98-0139]