

ORDINANCE NO. 7,905-N.S.

ADDING CHAPTER 13.22 TO THE BERKELEY MUNICIPAL CODE TO PROHIBIT
DISCRIMINATION ON THE BASIS OF FAMILY OR RELATIONSHIP STRUCTURE

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code 13.22 is hereby added to read as follows:

Chapter 13.22
DISCRIMINATION ON THE BASIS OF FAMILY OR RELATIONSHIP STRUCTURE
PROHIBITED

13.22.010 Purpose

It is the policy of the City to eliminate all forms of discrimination within the City, particularly discrimination against individuals who are a part of families or relationships that fall outside the nuclear family norm. These include single parents, multi-partner/multi-parent families and relationships, multi-generational households, consensually non-monogamous relationships, and asexual and aromantic relationships. It is the intent of the City to eliminate discrimination against individuals in such family or relationship structures in housing, public accommodations, educational institutions, and business establishments.

13.22.020 Findings

The City Council of the City of Berkeley finds and determines as follows:

- A. Diverse family structures, including relationship structures involving more than two adults engaged in a loving and consensual relationship, are becoming increasingly common.
- B. The perpetuation of nuclear definitions of "family" excludes a significant segment of the Berkeley population, such as multi-partner/multi-parent families and relationships, single parents, multi-generational households, consensually non-monogamous relationships, and consensual intimate relationships, including asexual and aromantic relationships. Individuals should not face discrimination on the basis of whom they share their homes, their hearts, and their lives.
- C. People in interpersonal relationships between two or more adult individuals that involve romantic, physical, and/or emotional intimacy face discrimination in many aspects of public life due to prejudicial misunderstandings related to the validity and moral fitness of such relationships.
- D. Single parents and people who identify as asexual and/or aromantic also face discrimination in many aspects of public life.

13.22.030 Definitions

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this subsection:

A. "Family or relationship structure" means the actual or perceived involvement or uninvolved of an individual in an "intimate personal relationship" or relationships, as defined in BMC Section 13.22.030(B). "Family or relationship structure" includes an individual's actual or perceived affinity, or lack thereof, for any given type of intimate personal relationship, regardless of whether the individual is currently in any intimate personal relationship(s).

B. "Intimate personal relationship" means any interpersonal relationship between two or more adult individuals that involves romantic, physical, and/or emotional intimacy, irrespective of the marital status of these individuals as defined in Part 11053 of Title 2 of the California Code of Regulations. "Intimate personal relationship" includes, but is not limited to, multi-partner/multiparent families and relationships, and multi-generational households.

C. "Business establishment" means any entity, however organized, which furnishes goods or services to the general public. An otherwise qualifying establishment which has membership requirements is considered to furnish services to the general public if its membership requirements: (a) consist only of payment of fees; (b) consist of requirements under which a substantial portion of the residents of this City could qualify; or (c) consist of an otherwise unlawful business practice.

D. "Individual" means the same as the term "person."

E. "Person" means any natural person, firm, corporation, partnership or other organization, association or group of persons however organized.

13.22.040 Unlawful Activities

A. In General. It shall be unlawful for any person or agent or employee thereof to discriminate against an individual on the basis of that individual's family or relationship structure, with respect to any of the following activities:

1. *Housing*. Any real estate transaction including but not limited to the rental thereof and/or any related terms, conditions, advertisements, communications, insurance, maintenance, rehabilitation, repairs, improvements, use or availability of facilities, or financing including loans and guarantees;

2. *Business Establishments*. The use or availability of goods, services, facilities, privileges, advantages, or accommodations from any business establishment, and/or any related terms, conditions, advertisements or communications;

3. City Facilities and Services. The use or availability of any municipal service or facility.

4 City Supported Services and Facilities. The use or availability of any service or facility wholly or partially funded or otherwise supported by the City.

B. Exceptions.

1. *Housing*. Nothing in this chapter shall be (a) construed to apply to the rental or leasing of any housing unit in which the owner or any member of the owner's family occupies the same living unit in common with the prospective tenant; (b) deemed to permit any rental or occupancy of any dwelling unit or commercial space otherwise prohibited by law; or (c) override any just cause for eviction set forth in the rental stabilization ordinance.

C. Pretext.

It shall be unlawful to do any of the actions mentioned in subsections (A)(1) through (A)(6) for any reason that would not have been asserted but for an individual's family or relationship structure.

13.22.050 Enforcement

A. Any aggrieved person may enforce the provisions of this chapter by means of a civil action.

B. Any person who commits, or proposes to commit, an action in violation of this chapter may be enjoined therefrom by a court of competent jurisdiction.

C. Action for injunction under this subsection may be brought by any aggrieved person, by the City Attorney, by the district attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class.

13.23.060 Liability for costs and damages

Any person who violates the provisions of this chapter shall be liable to each person injured by such violation for reasonable attorney's fees and costs as determined by the court, plus damages equaling three times the amount of actual damages or a minimum of one thousand dollars.

13.23.070 Limitation on action

Actions under this chapter must be filed within one year of the alleged discriminatory acts.

13.23.080 Waiver

The provisions of this Chapter do not apply where their application would violate or be inconsistent with state or federal laws, rules, or regulations.

13.23.090 Effective date

The effective date of this ordinance shall be January 1, 2025.

Section 2. Severability

If any section, subsection, sentence, clause, phrase, or word of this Ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Ordinance. The Council of the City of Berkeley hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on May 7, 2024, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Humbert, Kesarwani, Lunaparra, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.