

8/22/88
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Introduced by: Cynthia Sullivan

Proposed No. 88-212

ORDINANCE NO. **8625**

AN ORDINANCE relating to discrimination in places of public accommodations within King County; prohibiting the same; providing for enforcement and administration; providing for investigation of complaints and specifying penalties for violation of this ordinance.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. STATEMENT OF PURPOSE. This ordinance is an exercise of the police power of King County for the protection of the public welfare, health, peace and safety of the residents of King County and in fulfillment of the provisions of the constitution of this state. The King County council hereby finds and declares that the practice of discrimination against any person on the basis of race, color, sex, marital status, parental status, sexual orientation, religion, ancestry, age, national origin, of the presence of any sensory, mental or physical handicap in places of public accommodation constitute matters of local concern and are contrary to the public welfare, health, peace and safety of the resident of King County.

SECTION 2. DEFINITIONS. When used in this ordinance, unless the context otherwise requires:

A. "Charging Party" means any person alleging an act of discrimination in a place of public accommodation under this ordinance.

B. "Discrimination" or "Discriminatory Practice or Act" means any action or failure to act, whether by a single act or part of a practice, the effect of which is to adversely affect or differentiate between or among individuals, because of race, color, religion, national origin, age, sex, marital status,

1 parental status, sexual orientation, the presence of any sensory,
2 mental, or physical handicap, or the use of a trained dog guide
3 by a blind, deaf or physically disabled person.

4 C. "National origin" shall be interpreted to include
5 ancestry.

6 D. "Parental status" means being a parent, step-parent,
7 adoptive parent, guardian, foster parent or custodian of a minor
8 child or children, which child or children shall enter a place of
9 public accommodation.

10 E. "Person" means one or more individuals, partnerships,
11 associations, organizations, cooperatives, legal representatives,
12 trustees and receivers or any group of persons; it includes any
13 owner, lessee, proprietor, manager, agent or employee whether one
14 or more natural persons; or of any political or civil subdivision
15 thereof.

16 F. "Respondent" means any person who is alleged to have
17 discriminated in a place of public accommodation.

18 G. "Sexual Orientation" means male or female
19 heterosexuality, bi-sexuality or homosexuality, and includes a
20 person's attitudes, preferences, belief and practices pertaining
21 to sex, but shall not include overt conduct which is a public or
22 private nuisance or is unlawful under county, state or federal
23 law.

24 H. "Owner" includes persons who own, lease, sublease, rent,
25 operate, manage, have charge of, control or have the right of
26 ownership, possession, management, charge or control of real
27 property on their own behalf or on behalf of another.

28 I. "Place of public accommodations" shall mean and include
29 any place, store or other establishment, either licensed or
30 unlicensed which supplies goods or services to the general public
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1 and shall include, but not be limited to, the following types of
2 services or facilities, to wit: hotels, or other establishments
3 which provide lodging to transient guests; restaurants,
4 cafeterias, lunchrooms, lunch counters, soda fountains or other
5 facilities principally engaged in selling or offering for sale
6 food for consumption upon the premises; motion picture houses,
7 theatres, concert halls, sport arenas, stadiums or other places
8 of exhibition or entertainment; bowling alleys and amusement
9 parks; all retail establishments; all transportation carriers and
10 the mobile home parks; barber shops; beauty shops; and bar or
11 taverns or other facilities engaged in selling or offering for
12 sale alcoholic beverages for consumption upon the premises; and
13 shall include public burial facilities when such facilities are
14 owned and operated by any cemetery corporation or burial
15 association.

16 J. "Director" means the director of the department of
17 executive administration.

18 K. "Administrator" means the administrator of the
19 affirmative action program in the department of executive
20 administration.

21 L. "Senior citizen" means, for purpose of this ordinance,
22 individuals as old or older than an age set for a senior
23 category. The minimum age for the senior category may be set at
24 55 years or higher.

25 SECTION 3. DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION
26 PROHIBITED. It is unlawful for any person to engage in, or cause
27 or allow another to engage in, any of the following prohibited
28 acts, which are hereby designated as discrimination, in places of
29 public accommodation in unincorporated King County:

30 A. It is a discriminatory practice for any person, whether
31 acting for himself or another, because of race, color, religion,
32 national origin, age, sex, marital status, parental status,
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sexual orientation, the presence of any sensory, mental, or physical handicap, or the use of trained dog guide by a blind, deaf or physically disabled person:

1. As owner, custodial agent or employee of a place of public accommodation, to discriminate in denying, refusing, rejecting or granting any privilege, service, goods, merchandise, commodity or accommodation.

2. As owner, custodial agent or employee of a public place of accommodation, to discriminate by segregating or requiring the placing of any person in any separate section or area of the premises or facilities of such place of public accommodation.

3. To place, post, maintain or display any written or printed advertisement, notice or sign to the effect that any of the accommodations, advantages, facilities, privileges, goods or merchandise of any place of public accommodation, will or may be refused, withheld from or denied to any person.

B. Exemptions. Nothing in this section shall:

1. Apply to any non-commercial facility operated or maintained by a bona fide religious institution.

2. Be construed to prohibit treating handicapped persons more favorably than non-handicapped persons or to prohibit treating senior citizens more favorably than non-senior citizens.

3. Be construed to prohibit offering discounts, special prices, or other special arrangements to children or families or imposing age limits up to 21.

SECTION 4. FILING OF COMPLAINT.

A. A complaint alleging discrimination in a place of public accommodation may be filed by:

1. Any person when the person claims to be directly aggrieved by discrimination in a place of public accommodation;

1 2. Any state, local or federal agency concerned with
2 discrimination in places of public accommodation, whenever it
3 believes that a discriminatory act or practice has been or is
4 being committed.

5 B. A complaint alleging discrimination in a place of public
6 accommodation shall be in writing signed by the charging party.
7 Notice of intent to file such complaint must be filed within
8 sixty (60) days of the occurrence of the alleged discrimination
9 or within sixty (60) days of when the charging party, through
10 exercise of due diligence, should have had notice or been aware
11 of such occurrence. The complaint must be filed within thirty
12 (30) days after the expiration of the sixty-day period provided
13 in this subsection. The complaint must describe with
14 particularity the practice complained of and the location of the
15 practice and must identify the person being charged with
16 committing the discrimination.

17 PROVIDED THAT, a complaint shall not be rejected as
18 insufficient because of failure to include all required
19 information, so long as it substantially meets the informational
20 requirements necessary for processing.

21 C. The charging party may amend a complaint in any respect
22 as a matter of right before service of notice of hearing on the
23 matter, and thereafter may amend a complaint only with the
24 permission of the King County zoning and subdivision examiner,
25 which permission shall be granted when justice will be served
26 thereby, and all parties shall be allowed time to prepare their
27 case with respect to additional or expanded charges which they
28 did not and could not have reasonably foreseen would be an issue
29 at the hearing.
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1 SECTION 5. INVESTIGATION OF COMPLAINT.

2 A. After the filing of a complaint, the director, or the
3 administrator acting for the director, shall serve notice of the
4 complaint and a copy thereof on the respondent. The results of
5 the investigation shall be reduced to written findings of fact
6 and a finding shall be made that there either is or is not
7 reasonable cause for believing that an act of discrimination in a
8 place of public accommodation has been or is being committed.

9 B. If a finding is made that there is no reasonable cause,
10 said finding shall be served on the charging party and
11 respondent. Within thirty (30) days after service of such
12 negative finding, the charging party shall have the right to file
13 a written request with the director asking for reconsideration of
14 the finding. The director shall respond in writing within a
15 reasonable time by granting or denying the request.

16 SECTION 6. CONFERENCE AND CONCILIATION.

17 A. If the finding is made initially or on request for
18 reconsideration that reasonable cause exists to believe that
19 discrimination in a place of public accommodation has occurred,
20 the director, acting through the administrator, shall endeavor to
21 eliminate the discriminatory practice by conference, conciliation
22 and persuasion, which may include as a condition of settlement
23 the elimination of discriminatory practice, refunds or credits
24 not in excess of the amount of monetary damage actually incurred,
25 reinstatement of occupancy or other such requirements as may
26 lawfully be agreed upon by the parties and the director. Any
27 settlement agreement shall be reduced to writing and signed by
28 the respondent. An order shall then be entered by the director
29 setting forth the terms of the agreement. Copies of such order
30 shall be delivered to all affected parties and the original
31 thereof filed with the division of records and elections.
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1 B. If no agreement can be reached, a finding to that effect
2 shall be made by the director and incorporated in the order, with
3 the copy thereof furnished to the complainant and the
4 respondent. The order shall also include:

5 1. A finding that discrimination in a place of public
6 accommodation has occurred;

7 2. The basis for such finding;

8 3. An order requiring the respondent to cease and desist
9 from such discriminatory practice and to take appropriate
10 affirmative action, including but not limited to, refunds or
11 credit or other damages not to exceed monetary damage actually
12 incurred, attorneys' fees or to take such other action as in the
13 judgment of the director will effectuate the purposes of this
14 ordinance, which may include the requirement for a report on the
15 matter of compliance. In the event the director finds the
16 respondent willfully or knowingly committed any discrimination in
17 a place of public accommodation, the director may further order
18 the respondent to pay a civil penalty of up to five hundred
19 dollars (\$500.00) per violation, which penalty shall be paid to
20 the office of finance for deposit in the County General Fund.

21 SECTION 7. Hearing - Appeal.

22 A. Any respondent aggrieved by an order of the director may
23 request in writing within ten days of the service of the notice
24 and order an appeal hearing before the King County zoning and
25 subdivision examiner. The request shall cite the notice and
26 order appealed from and contain a brief statement of the reasons
27 for seeking the appeal hearing.

28 B. Any order issued by the director pursuant to procedures
29 contained in this ordinance shall become final ten days after
30 service of the notice and the order unless a written request for
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1 hearing is received by the hearing examiner within the ten day
2 period.

3 C. If the order of the director is appealed, a hearing shall
4 be conducted for the purpose of affirming, denying or modifying
5 the order. There shall be a verbatim record kept of the hearing
6 and the zoning and subdivision examiner shall have such rule
7 making and other powers necessary for the conduct of the hearing
8 as are specified by K.C.C. 20.24.170. The director's order shall
9 not be accorded the presumption of correctness. The zoning and
10 subdivision examiner's decision shall be based upon a
11 preponderance of the evidence. Such hearing shall be conducted
12 within a reasonable time after receipt of the request for
13 appeal. Written notice of the time and place of the hearing
14 shall be given at least ten days prior to the date of the hearing
15 to each affected party and to the director.

16 D. Each party shall have the following rights, among others:

- 17 1. To call and examine witnesses on any matter relevant to
18 the issues of the complaint;
- 19 2. To introduce documentary and physical evidence;
- 20 3. To cross-examine opposing witnesses on any matter
21 relevant to the issues of the complaint;
- 22 4. To impeach any witness regardless of which party first
23 called the witness to testify;
- 24 5. To rebut evidence against him;
- 25 6. To represent himself or herself or to be represented by
26 anyone of his/her choice who is lawfully permitted to do so.

27 E. Following review of the evidence submitted, the zoning
28 and subdivision examiner presiding at the hearing shall enter
29 written findings and conclusions and shall affirm or modify the
30 order previously issued if the examiner finds that a violation
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1 has occurred. The examiner shall reverse the order if he finds
2 no violation occurred. A copy of the examiner's decision shall
3 be delivered to all affected parties.

4 SECTION 8. Enforcement.

5 In the event the respondent refuses or fails to comply with
6 any order of the director, the director is authorized to enforce
7 the order against such person utilizing civil penalties of the
8 K.C.C. Title 23. If a civil penalty is assessed, notwithstanding
9 the monetary amount provided in K.C.C. Title 23, the penalty
10 shall be two hundred dollars (\$200.00) per day for each day the
11 respondent refuses or fails to comply with any order of the
12 director.

13 SECTION 9. Authorization to Implement Procedures.

14 The director is authorized to implement such forms,
15 administrative processes, and operational procedures as are
16 necessary to comply with the provisions of this chapter; provided
17 that such forms, processes and procedures shall be promulgated in
18 compliance with K.C.C. 2.98, Rules of County Agencies.

19 SECTION 10. Severability.

20 The provisions of this ordinance are declared to be separate
21 and severable. The invalidity of any clause, sentence,
22 paragraph, subdivision, section or portion of this ordinance, or
23 the invalidity of the application thereof to any person or
24 circumstance shall not affect the validity of the remainder of
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1 this ordinance, or the validity of its application to other
2 persons or circumstances.

3 INTRODUCED AND READ for the first time this 14th day of
4 March, 1988.

5 PASSED this 22nd day of August, 1988.

6 KING COUNTY COUNCIL
7 KING COUNTY, WASHINGTON

8 Bery Grant
9 Chairman

10 ATTEST:

11
12 Dorothy M. Owens
13 Clerk of the Council

14 APPROVED this 2nd day of September, 1988.

15 Jim Hill
16 King County Executive