CITY OF ALBION
ORDINANCE #2015-04

AN ORDINANCE TO UPDATE AND AMEND THE NON-DISCRIMINATION ORDINANCE BY ADDING SECTION 54-1 AND TO AMEND SECTION(S) 54-26, 54-27, 54-28 AND TO RESCIND SECTION(S), 54-29, 54-56, 54-57, 54-58, 54-59, 54-60, 2-241, 2-242, 2-243, 2-244, 2-245 and 2-246

Purpose and Finding:

It is the policy of the City of Albion to exercise its police power in order to ensure public safety, public health, and a person's general welfare. It is the intent of the City of Albion that no individual be denied equal protection of the laws, nor shall an individual be denied the enjoyment of his or her civil rights or be discriminated against because of actual or perceived age, color, disability, education, familial status, gender expression, gender identity, height, marital status, national origin, race, religion, sex, sexual orientation, or weight. This ordinance will add gender expression, gender identity, and sexual orientation as protected classes to those already adopted and revise the enforcement of the non-discrimination ordinance as well as the potential penalties for violations.

THE CITY OF ALBION ORDAINS:

Section 54-1: Definitions

1. *Age* shall mean chronological age.

2. *City Manager* shall mean the City Manager of the City of Albion or his or her designee.

3. *Contractor* shall mean a person who by contract furnishes services, materials or supplies. "Contractor" does not include persons who are merely creditors or debtors of the City, such as those holding the City's notes or bonds or persons whose notes, bonds or stock are held by the City.

4. *Disability* shall mean a determinable characteristic resulting from disease, injury, congenital condition of birth, or functional disorder and is unrelated to one's ability to safely perform the work involved in jobs available or positions available to such persons for hire or promotion, or unrelated to one's ability to acquire, rent and maintain property, or unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation. "Disability" does not include any condition caused by the current illegal use of a controlled substance or the use of alcohol by an individual.

5. *Discrimination or discriminate* shall mean without limitation, any act which, because of actual or perceived age, color, disability, education, familial status, gender expression, gender identity, height, marital status, national origin, race, religion, sex, sexual orientation, or weight results in the unequal treatment or separation of any person, or denies, prevents, limits, adversely affects the benefit or enjoyment of any person, of employment, ownership, or occupancy of real property, or public accommodations and public services.

6. *Employer* shall mean any person or business employing one or more persons.

7. *Employment Agency* shall mean a person or business who undertakes to procure employees for an employer or procures opportunities for individuals to be employed by an employer.

8. *Family* shall mean:
    a. An individual who is pregnant; or
    b. Two or more individuals related by blood within three degrees of relation, marriage, adoption, in a foster care relationship or legal custody relationship.

9. *Familial Status* shall mean the state of being in a family.

10. *Gender Expression* shall be defined as, a gender-based appearance, expression, or behavior of an individual, regardless of the individual's assigned sex at birth.

11. *Gender Identity* shall be defined as, an individual's internal sense of their own sex and a defining component of sex.

12. *Housing Facility* shall mean any dwelling unit or facility used or intended or designed to be used as the home, domicile or residence of one or more persons, including, but not limited to, a house, apartment, rooming house, dormitory, housing cooperative, hotel, motel, tourist home, retirement home or nursing home.

13. *Marital Status* shall mean the state of being married, never married, divorced or widowed.

14. *Perceived* shall mean the perception of the person who acts, and not the perception of the person for or against whom the action is taken.

15. *Place of Public Accommodation* shall mean an educational, governmental, health, entertainment, cultural, recreational, refreshment, transportation, financial institution, business or facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

16. *Religion* shall mean a set of beliefs concerning the cause, nature, and purpose of the universe and/or a specific fundamental set of beliefs and practices generally agreed upon by a number of persons or sects and/or the non-exercise thereof or non-belief therein.

17. *Religious Organization* shall mean an organization, church, group or body of communicants that is organized not for pecuniary profit that regularly gather for worship and religious purposes, and includes a religious-based private school that is not organized for pecuniary profit.

18. *Sexual Orientation* shall mean, emotional, romantic, and/or sexual attractions, or the absence thereof, to people. Sexual orientation also refers to a person's sense of identity based on those attractions, related behaviors, and membership in a community of others who share those attractions.

Section 54-26: Discrimination Prohibited

1. It shall be unlawful for any city department or any city official, his or her agent or employees, for and on behalf of the city, to discriminate against any persons within the City of Albion regarding employment, housing, public accommodations, and public services on the basis of actual or perceived age, color, disability, education, familial status, gender expression, gender identity, height, marital status, national origin, race, religion, sex, sexual orientation, or weight.

2. It shall be unlawful for any person or business to discriminate against any persons within the City of Albion regarding employment, housing, public accommodations, and public services on the basis of actual or perceived age, color, disability, education, familial status, gender expression, gender identity, height, marital status, national origin, race, religion, sex, sexual orientation, or weight.

3. All contracting agencies of the city or any department thereof shall include in all contracts negotiated by them, for and on behalf of the city, a provision obligating the contractor not to discriminate against any qualified employee or qualified applicant for employment on the basis of actual or perceived age, color, disability, education, familial status, gender expression, gender identity, height, marital status, national origin, race, religion, sex, sexual orientation, or weight and shall require said contractors to include an identical provision in subcontracts.

4. To the extent that this ordinance confers benefits on any classes protected from discrimination under this ordinance, it shall not be construed to be preempted by state or federal statute.

Section 54-27: Exceptions

1. Section 54-26 shall not apply to:
    a. to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the private club or establishment are made available to the customers or patrons of another establishment that is a place of public accommodation or is licensed by the state under Act No. 8 of the Public Act of 1933, being MCL 436.1 – 436.58, the Michigan Liquor Control Act, as amended.

    b. to a religious educational institution or an educational institution operated, supervised, or controlled by a religious institution organization which limits admission or gives preference to an applicant of the same religion.

    c. to the rental of housing accommodations in a building which contains housing accommodations for not more than two families living independently of each other if the owner or a member of the owner's immediate family resides in one of the housing accommodations, or to the rental of a room or rooms in a single-family dwelling by a person if the lessor or a member of the lessor's immediate family resides in the dwelling.

    d. to the rental of housing accommodations for not more than nine (9) months by the owner or lessor where it was occupied by him/her and maintained as his/her home for at least three months immediately preceding occupancy by the tenant and is temporarily vacated while maintaining legal residence.

    e. with respect to age only, to the sale, rental or lease of housing accommodations meeting the requirements of federal, state or local housing programs for senior citizens, or accommodations otherwise intended, advertised, designed or operated, bona fide, for the purpose of providing housing accommodations for persons 50 years of age or older.

    f. with respect to gender only, to a private educational institution which now or hereafter provides an education to only persons of one gender.

    g. a governmental exemption shall not apply to any action by a governmental entity or agency where a person's qualification is expressly limited by statute, charter, ordinance or policy as otherwise provided at law.

Section 54-28: Complaint procedures, Prosecution, Penalties, Civil Remedies

1. If any individual has a grievance alleging a violation of this chapter, he/she has 180 calendar days from the date of the individual's knowledge of the allegedly discriminatory action or 180 calendar days form the date when the individual should have known of the alleged discriminatory action to file a complaint with the City Manager. If an individual fails to file a complaint alleging a violation of this chapter within the specified time frame, the complaint will not be considered by the City Manager.

2. The complaint should be made in writing to the City Manager. The complaint may be filed in person, by email, of by mail. The complaint must contain information about the alleged discrimination, such as name, address, phone number of the complainant and location, date, and description of the alleged violation of this chapter.

3. Upon receipt, the City Manager will review the complaint, provide a copy of the complaint to the Albion City Attorney's Office, communicate with the complainant, and take appropriate action with respect to the matter, including, but not limited to:
    a. Referring the complainant to other local, state or federal entities for investigations and remedy

    b. Informally mediating the matter between the involved parties.

    c. Referring the complaint to the Albion City Attorney for further investigation and action pursuant to this chapter.

    d. Dismissing the complaint, after review with the Albion City Attorney, if the City Attorney determines that the allegations do not constitute a violation of this chapter.

    e. The City Manager will take action on the complaint within 90 days of receipt of the complaint. If additional time is necessary, the City Manager will notify the complainant of the need for additional time. All communications with complainant regarding actions taken or additional time necessary will be in writing, with a copy to the Albion City Attorney.

    f. The Albion City Attorney will notify the City Manager in writing of actions taken by the Albion City Attorney's Office on complaints referred to that office by the City Manager.

    g. All complaints received by the City Manager and responses from the City Manager will be retained by the City of Albion for at least 3 years.

h. The City Manager will provide an annual report to the Albion City Council regarding the complaints received and actions taken. Said report shall be redacted of any information which would identify the individual(s) making the complaints.

i. No individual shall provide false information to any authorized individual investigating a complaint regarding violation of this chapter.

j. For an investigation, the Albion City Attorney may request a person to produce books, papers, records or other documents which may be relevant to a violation or alleged violation of this chapter.

4. Prosecution
   a. Prosecution for violation of this chapter may be initiated by the Albion City Attorney on behalf of the affected individual on the basis of an investigation initiated by a complaint to the City Manager and may act based on evidence gathered by or findings of the City Manager.

5. Penalties
   a. Any person in violation of any of the provisions of this chapter shall be responsible for a municipal civil infraction, and upon a determination or admission of responsibility shall be subject to a civil fine of not more than $500.00, costs of prosecution and such other costs, damages, expenses, sanctions, and remedies as authorized by law, including but not limited to, the Revised Judicature Act, and specifically MCL 600.8302, as amended.

6. Private Civil Action
   a. To the extent allowed by law, an individual who is the victim of discriminatory action in violation of this chapter may bring a civil action for appropriate injunctive relief or damages or both against the person(s) who acted in violation of this chapter.

   b. As used in subsection (a), "damages" means damages for injury or loss caused by each violation of this chapter, including reasonable attorney fees.

   c. Private actions and remedies under this section shall be in addition to any actions for violations which the City of Albion my take.

7. Interpretation
   a. This Non-Discrimination ordinance shall not be read to prohibit or interfere with a person's free exercise of religion as protected by the First Amendment to the United States Constitution and Article 1, Section 4, of the Michigan Constitution.

This Ordinance shall take effect August 20, 2015 after publication.

First Reading:
July 6, 2015

Ayes 7
Nays 0
Absent 0

Jill Domingo
Jill Domingo,
City Clerk

Second Reading & Adoption:
July 20, 2015

Ayes 7
Nays 0
Absent 0

Joseph V. Domingo
Joseph V. Domingo,
Mayor