



# CITY OF BERKLEY, MICHIGAN NON-DISCRIMINATION POLICY

ADOPTED BY RESOLUTION R-12-20  
MAY 18, 2020

This Policy is adopted and approved by the Berkley City Council and applies to employees of all departments as well as all members of boards and commissions and of the City of Berkley.

## **SECTION I. GENERAL PROVISIONS:**

Purpose of Policy: The City of Berkley (hereinafter "City") assures that no individual or entity shall be subjected to discrimination or harassment on the grounds of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, genetic information, height, weight, disability, veteran status, familial status, marital status, or any other legally protected status under federal and state laws be denied the benefits of, or be otherwise subjected to discrimination, harassment or retaliation for employment, or under any program, activity or service.

Definitions: The following terms are used throughout this policy as defined below:

City Employee(s) means full and part-time employees of the City, elected and appointed officials.

Contractor Employees means employees of City contractors who are working on behalf of the City.

Violations: Violations of this Policy may result in disciplinary action, termination of a Contract and/or other remedies provided by law, including dismissal from City employment or City assignment.

## **SECTION II. EMPLOYMENT:**

This policy applies to recruitment, hiring, training, promotion, salary decisions, work environment, as well as other terms and conditions of employment. The City is committed to providing an Equal Employment Opportunity to all individuals, regardless of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, genetic information, height, weight, disability, veteran status, familial status, marital status or any other reason, that is unrelated to the person's ability to perform the duties of a particular job or position, in accordance with applicable federal and state laws.

All City employees, applicants, and contractual employees are protected from coercion, intimidation, harassment, retaliation or discrimination in performing their duties or exercising their rights under federal and state laws.

Questions or concerns by City employees or Contractor employees regarding treatment under this section of the policy may be directed to the department director, if feasible. However, any complaints may be brought to the direct attention of the City Manager. Such complaints will be investigated promptly in accordance with established procedures as outlined by the appropriate collective bargaining agreement or the City's Merit System of Human Resource Management. There shall be no retaliation taken against individuals reporting their concerns under this Policy to the City.

All City Employees and contractors Contractor employees are expected to conduct themselves in a manner that will ensure compliance with City policies and promote a work environment free from illegal discrimination or harassment. To abuse the dignity of anyone through racial, sexual, ethnic slurs, or other objectionable remarks or conduct is a violation of City policy this Policy.

### **SECTION III. CONTRACTING OF CITY SERVICES:**

City contracts issued by staff or the City Council, with Contractors for provision of services directly to the public, shall include a requirement that the person or entity, and any subcontractor under the contract, shall not discriminate against an employee or an applicant for employment in hiring, any terms and conditions of employment or matters related to employment regardless of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, genetic information, height, weight, disability, veteran status, familial status, marital status or any other reason, that is unrelated to the person's ability to perform the duties of a particular job or position, in accordance with applicable federal and state laws.

This policy applies to contracts for the provision of ongoing services to be provided on behalf of the City. This policy does not apply to contracts for isolated or singular instances of the provision of services when the contractor will not be acting or providing services directly to the public on behalf of the City.

### **SECTION IV. CITY PROCUREMENT OF GOODS & EQUIPMENT:**

This policy does not apply to the contracts for the provision of supplies, materials, equipment, printing, and all other items periodically needed by City departments and agencies. This requirement does not apply to contracts where the City is not able to modify the contractor's standard terms such as end user and software licenses, technology use agreements and on-line services provided free of charge.

### **SECTION V. MODIFICATION OF LANGUAGE:**

The non-discrimination language of this policy may be temporarily modified subject to the following:

- 1) Notification of modified language is presented, in a timely manner, to the City Manager
- 2) Approval by the City Manager or their designee, signifying that the modified non-discrimination language meets the intent of the City's policy
- 3) Modified non-discrimination language and City Manager's approval is included into the contract

### **SECTION VI. PROVISION OF CITY SERVICES:**

All City services, programs, facilities and assistance are available to all individuals and entities without regard to race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, genetic information, height, weight, disability, veteran status, familial status, marital status, unless a federal or state law mandates contrary action.

**A RESOLUTION**  
**OF THE CITY COUNCIL OF THE CITY OF BERKLEY, MICHIGAN**  
**ADOPTING THE PROPOSED CITY OF BERKLEY**  
**NON-DISCRIMINATION POLICY**

**WHEREAS**, ensuring the health, safety, and wellbeing of Berkley's residents and business community is paramount to the City; and

**WHEREAS**, the City of Berkley strives to protect the community's wellbeing by being a safe, inclusive, and welcoming community to all; and

**WHEREAS**, fostering a community which values and encourages diversity, inclusion, and equity, creates an environment which ensures everyone is welcome in the community, and

**WHEREAS**, the City benefits from being a model of equal opportunity; treating all people equitably and fairly, dispelling prejudices that impede our community members from achieving their highest potential and economic prosperity, and overall knocking down social barriers; and

**WHEREAS**, there have been policy and program initiatives by the federal, state, and local governments aimed at expanding policies that further requirements that prohibit discrimination based on sexual orientation, gender identity, and gender expression in relation to employment, procurement, grants and loans, and the delivery of services; and

**WHEREAS**, the United States Equal Employment Opportunity Commission states that sex discrimination involves treating someone (an applicant or employee) unfavorably because of that person's sex. Discrimination against an individual because of gender identity, including transgender status, or because of sexual orientation, is discrimination because of sex and is a violation of Title VII; and

**WHEREAS**, in 2014 the United States federal administration enacted Executive Order 13672 to prohibit discrimination and take further steps to promote economy and efficiency in procurement for the federal government by prohibiting discrimination based on sexual orientation and gender identity; and

**WHEREAS**, in 2018 the Michigan Civil Rights Commission, exercised its constitutional authority to formally determine that discrimination because of "sex", as used in the Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 to 37.2804, includes discrimination based on gender identity and sexual orientation; and

**WHEREAS**, the Executive Branch of the State of Michigan has enacted Executive Directives No. 2018-7 and 2019-9. Both Executive Directives expand policies regarding equal employment opportunity, grant and loan program policies, and procurement contracting, to include provisions

which prohibit State agencies, contractors, and sub-contractors from discriminating against employees and applicants for employment or service delivery based on sex, sexual orientation, gender identity, or gender expression; and

**WHEREAS**, at least 400 cities and counties, as of October 2017, prohibit employment discrimination on the basis of sexual orientation and gender identity for public employees; and

**WHEREAS**, establishing and implementing policies and procedures that encourage non-discrimination and equitable treatment are essential for the fairness and integrity of the City's practices and procedures; and

**WHEREAS**, the opportunity exists for the City of Berkley to join federal, state, and fellow local governments to expand its policy requirements that prohibit discrimination based on sexual orientation, gender identity, or gender expression in relation to employment, contracting, procurement, and services.

**NOW THEREFORE BE IT RESOLVED;**

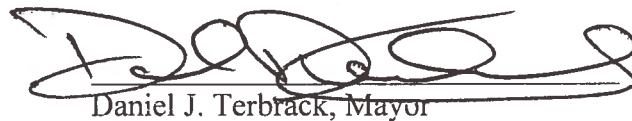
**SECTION 1:** That the Council of the City of Berkley expand and enact policy requirements that prohibit discrimination based on sexual orientation, gender identity, or gender expression in relation to employment, contracting, procurement, and services.

**SECTION 2:** That the Council of the City of Berkley hereby approves Attachment A, the proposed "Non-Discrimination Policy" for the City of Berkley.

**SECTION 3:** That the Council of the City of Berkley hereby requires that all City departments, boards, commissions, employees, or other agencies encompassed within the City government, adhere and comply to the "Non-Discrimination Policy" and requires its inclusion into current and future policies, where applicable.

**SECTION 4:** That the Council of the City of Berkley hereby requires that all contractors, sub-contractors, persons or entities that contract with or receive funds to provide services to the City of Berkley, adhere and comply to the "Non-Discrimination Policy."

Introduced and passed at a Regular City Council Meeting on Monday, May 18, 2020.



Daniel J. Terbrack, Mayor

Attest:

  
Victoria Mitchell  
City Clerk