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# AIDS Information Exchange

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With more frequent reports in the media regarding Acquired Immune Deficiency Syndrome (AIDS) within the past few months, the Conference of Mayors has been receiving requests for copies of an ordinance adopted August 16, 1985 by the City of Los Angeles prohibiting discrimination against people with AIDS. In light of the August 30, 1985 Centers for Disease Control (CDC) guidelines on the education and foster care of HTLV-III positive children, and upcoming guidelines concerning employment of people with AIDS, cities and other governmental jurisdictions may wish to review Los Angeles' ordinance.

## CITY OF LOS ANGELES ORDINANCE NO. 160289

An ordinance amending Chapter III of the Los Angeles Municipal Code by adding Article 5.8 thereto prohibiting discrimination in employment, housing, medical and dental services, business establishments, city facilities, city services and other public accommodations on the basis of the fact that the person discriminated against has the medical condition Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto.

### THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS

Section 1. Chapter III of the Los Angeles Municipal Code is hereby amended by adding Article 5.8 thereto to read as follows:

#### ARTICLE 5.8

PROHIBITION AGAINST DISCRIMINATION BASED ON A PERSON SUFFERING FROM THE MEDICAL CONDITION AIDS, OR ANY MEDICAL SIGNS OR SYMPTOMS RELATED THERETO, OR ANY PERCEPTION THAT A PERSON IS SUFFERING FROM THE MEDICAL CONDITION AIDS WHETHER REAL OR IMAGINARY

#### SEC. 45.80. STATEMENT OF POLICY:

After public hearings and receipt of testimony, the City Council finds and declares:

That the medical condition described as Acquired Immune Deficiency Syndrome and commonly known as AIDS is a deadly disease which has the potential to affect every segment of our City's population.

That AIDS was first recognized in 1981 by the Federal Centers for Disease Control based on the study of a pattern of unusual illnesses among young, single men reported by the medical center associated with UCLA within our City.

That AIDS in the opinion of the scientific and medical community is caused by a virus, known as HTLV-III or LAV, which attacks and cripples the body's immune system, thereby leaving the body vulnerable to opportunistic infections.

That a person afflicted with AIDS suffers a variety of virus and/or fungus-caused illnesses which debilitate the body resulting in a high mortality rate within three years after diagnosis.

That the spread of the virus has occurred through the exchange of bodily fluids, i.e., blood, blood by-products, or semen, between individuals.

That no evidence exists to indicate the spread of the virus by casual contact.

That medical studies of family groups in which one or more persons have been diagnosed with AIDS show no spread of the virus other than through sexual intimacy or through the exchange of blood (mother to fetus).

That the virus can thrive only in favorable conditions, and cannot exist for a significant period of time outside the body, and can be protected against by the application of regular practices of hygiene, such as the use of chlorine in swimming pools or spas and the use of household bleach when washing garments or cleaning contaminated surfaces.

That the public health danger represented by the virus and its subsequent manifestation as AIDS is caused by the lengthy incubation period during which period an apparently healthy individual may spread the disease to other persons through the exchange of blood, blood by-products, or semen.

That AIDS while recognized as a national public health emergency has been concentrated in urban areas with our city representing the third highest number of cases reported within a local public health jurisdiction.

That AIDS in the opinion of the scientific and medical community will continue to increase at a high rate within our city for the foreseeable future.

That AIDS by its nature has created a discrete and insular minority of our citizens who are afflicted with a seriously disabling condition whose ultimate outcome is fatal.

That the persons afflicted with AIDS represent a segment of our population particularly victimized due to the nature of the disease and to the present climate of misinformation, ignorance and fear in the general population.

That discrimination against victims of AIDS and AIDS related conditions exists in the City of Los Angeles;

That persons with AIDS or AIDS related conditions are faced with discrimination in employment, housing, medical and dental services, business establishments, city facilities, city services and other public accommodations;

That such discrimination cuts across all racial, ethnic and economic lines;

That such discrimination poses a substantial threat to the health, safety and welfare of the community;

That existing state and federal restraints on such arbitrary discrimination are inadequate to meet the particular problems of this City.

SEC. 45.81. DEFINITIONS:

The following words and phrases, whenever used in this Article, shall be construed as defined in this section:

A. AIDS: shall mean the disease complex which occurs when an important part of the human immune system is destroyed by the action of a virus known as HTLV-III or LAV. Signs and symptoms of this disease complex are manifested in the afflicted person by a series of virus or fungus-caused illnesses of a chronic nature.

B. Condition related thereto: Shall mean any perception that a person is suffering from the medical condition AIDS whether real or imaginary.

C. Business Establishment: shall mean 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.

D. Employer: Shall mean every person, including any public service corporation and the legal representative of any deceased employer which has any natural person in service.

E. Housing Services: Shall mean services connected with the use of occupancy of a rental unit including but not limited to, utilities (including light, heat, water and telephone), ordinary repairs or replacement, and maintenance, including painting. This term shall also include the provision of elevator service, laundry facilities and privileges, common recreational facilities, janitor service, resident manager, refuse removal, furnishings, food service, parking and any other benefits, privileges or facilities.

F. Rent: Shall mean the consideration, including any bonus, benefits or gratuity, demanded or received by a landlord for or in connection with the use or occupancy of a rental unit, including but not limited to monies demanded or paid for the following: meals where required by the landlord as a condition of the tenancy; parking; furnishings; other housing services of any kind; subletting; or security deposits.

G. Rental Units: Shall mean all dwelling units, efficiency dwelling units, guest rooms, and suites in the City of Los Angeles, as defined in Section 12.03 of this Code, rented or offered for rent for living or dwelling purposes, the land

and buildings appurtenant thereto, and all housing services, privileges, furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities.

This term shall not include:

1. Housing accommodations which a government unit, agency or authority owns, operates, or manages, and which are specifically exempted from municipal regulation by state or federal law or administrative regulation.

H. Person: Shall mean any natural person, firm, corporation, partnership or other organization, association or group of persons however organized.

SEC. 45.82. EMPLOYMENT:

A. Unlawful Employment Practices.

It shall be an unlawful employment practice for any employer, employment agency or labor organization or any agent or employee thereof to do or attempt to do any of the following:

1. Fail or refuse to hire, or to discharge any person, or otherwise to discriminate against any person with respect to compensation, terms, conditions or privileges of employment on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any condition related thereto.
2. Limit, segregate or classify employees or applicants for employment in any manner which would deprive or tend to deprive any person of employment opportunities, or adversely affect his or her employment status on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any condition related thereto.
3. Fail or refuse to refer for employment any person, or otherwise to discriminate against any person on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any condition related thereto.
4. Fail or refuse to include in its membership or to otherwise discriminate against any person; or to limit, segregate or classify its membership; or to classify or fail to refer for employment opportunities, or otherwise adversely affect her or his status as an employee or as an applicant for employment on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any condition related thereto.
5. Discriminate against any person in admission to, or employment in, any program established to provide apprenticeship or other training or retraining, including any on-the-job training program on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any condition related thereto.

B. Bonafide Occupational Qualification not Prohibited; Burden of Proof.

1. Bona Fide Occupational Qualification. Nothing contained in this Section shall be deemed to prohibit selection, rejection or dismissal based upon a bona fide occupational qualification.
2. Burden of Proof. In any action brought under this Article, if a party asserts that an otherwise unlawful discriminatory practice is justified as a bona fide occupational qualification, that party shall have the burden of proving: (1) that the discrimination is in fact a necessary result of a bona fide occupational qualification; and (2)

that there exists no less discriminatory means of satisfying the occupational qualification.

C. Exceptions.

1. It shall not be unlawful discriminatory practice for an employer to observe the conditions of a bona fide employee benefit system, provided such systems or plans are not a subterfuge to evade the purposes of this Article; provided further that no such system shall provide an excuse for failure to hire any person.

SEC. 45.83. RENTAL HOUSING:

A. Unlawful Rental Housing Practices.

It shall be unlawful for any person having a housing accommodation for rent or lease, or any authorized agent or employee of such person to or attempt to do any of the following:

1. Refuse to rent or lease a rental unit, refuse to negotiate for the rental or lease of a rental unit, evict from a rental unit, or otherwise deny to or withhold a rental unit from any person on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any condition related thereto.

2. Rent or lease a rental unit on less favorable terms, conditions or privileges, or discriminate in the provision of housing services to any person on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any medical condition related thereto.

3. Represent to any person that a rental unit is not available for inspection, rental or lease when such rental unit is, in fact, available on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any condition related thereto.

4. Make, print, publish, or cause to be made, printed, or published any notice, statement, sign, advertisement, application, or contract with regard to a rental unit that indicates any preference, limitation, or discrimination with respect to the fact that a person has the medical condition AIDS or any condition related thereto.

B. Exceptions.

1. Owner-occupied. Nothing in this Article shall be construed to apply to the rental or leasing of any housing unit in which the owner or lessor or any member of his or her family occupies the same living unit in common with the prospective tenant.

2. Effect on Other Laws. Nothing in this Article shall be deemed to permit any rental or occupancy of any dwelling unit or commercial space otherwise prohibited by law.

3. Nothing in this Article shall override any just cause for eviction set forth in the Rent Stabilization Ordinance. AIDS shall not constitute an unreasonable health hazard under Section 151.09 of the Rent Stabilization Ordinance.

SEC. 45.84. BUSINESS ESTABLISHMENTS:

A. Unlawful Business Practice.

1. Business Practices Generally. It shall be an unlawful business practice for any person to deny any individual the full and equal

enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any business establishment including, but not limited to, medical, dental, health care and convalescent services of any kind whatsoever, on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any condition related thereto.

B. Exceptions.

Nothing in this Article shall apply to any blood bank, blood donation facility, sperm bank, sperm donation facility, organ donation facility, surrogate mother or surrogate mother facility, or to any like service facility or establishment engaged in the exchange of products containing elements of blood or sperm.

SEC 45.85. CITY FACILITIES AND SERVICES:

A. Unlawful Service and Facility Practices.

It shall be an unlawful practice for any person to deny any person the full and equal enjoyment of, or to impose different terms and conditions on the availability of any of the following:

1. Use of any City facility or City service on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any condition related thereto.
2. Any service, program or facility wholly or partially funded or otherwise supported by the City of Los Angeles, on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any condition related thereto. This subsection shall not apply to any facility, service or program which does not receive any assistance from the City of Los Angeles which is not provided to the public generally.

SEC 45.86. EDUCATIONAL INSTITUTIONS:

A. Unlawful Educational Practices.

It shall be an unlawful educational practice for any person to do any of the following:

1. To deny admission, or to impose different terms or conditions on admission, on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any condition related thereto.
2. To deny an any individual the full and equal enjoyment of, or to impose different terms or conditions upon the availability of, any facility owned or operated by or any service or program offered by an educational institution on the basis (in whole or in part) of the fact that such person has the medical condition AIDS or any condition related thereto.

B. Exceptions.

It shall not be an unlawful discriminatory practice for a religious or denominational institution to limit admission, or give other preference to applicants of the same religion.

SEC. 45.87 ADVERTISING:

It shall be unlawful for any person to make, print, publish, advertise or disseminate in anyway any notice, statement or advertisement with respect to any

of the acts mentioned in this Article, which indicates an intent to engage in any unlawful practice as set forth in this Article.

SEC. 45.88. SUBTERFUGE:

It shall be an unlawful discriminatory practice to do any of the acts mentioned in this Article for any reason which would not have been asserted, wholly or partially, but for the fact that the person against whom such assertions are made has the medical condition AIDS or any condition related thereto.

SEC. 45.89. LIABILITY:

Any person who violates any of the provisions of this Article or who aids in the violation of any provisions of this Article shall be liable for, and the court shall award to the individual whose rights are violated, actual damages, costs, and attorney's fees. In addition, the court may award punitive damages in a proper case.

SEC. 45.90. ENFORCEMENT:

A. Civil Action.

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

B. Injunction.

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

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

C. Non-Exclusive.

Nothing in this Article shall preclude any aggrieved person from seeking any other remedy provided by law.

D. Exception.

Notwithstanding any provision of this code to the contrary, no criminal penalties shall attach for any violation of the provision of this Article.

SEC. 45.91. LIMITATION ON ACTION:

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

SEC. 45.92. SEVERABILITY:

If any part or provision of this Article or the application thereof to any person or circumstance, is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be effected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable.

SEC. 45.93. EXCEPTIONS:

- A. No part of this Article shall apply to any bona fide religious organization.
- B. No part of this Article shall apply where a course of conduct is pursued which is necessary to protect the health or safety of the general public.
  - 1. Burden of Proof. In any action brought under this Article, if a party asserts that an otherwise unlawful discriminatory practice is justified as necessary to protect the health or safety of the general public, that party shall have the burden of proving: (1) that the discrimination is in fact a necessary result of a necessary course of conduct pursued to protect the health or safety of the general public; and (2) that there exists no less discriminatory means of satisfying the necessary protection of the health or safety of the general public.

SEC. 2. URGENCY CLAUSE:

The City Council finds and declares that this ordinance is required for the immediate protection of the public peace, health and safety for the following reasons: This ordinance will prevent unlawful discrimination against persons with AIDS or AIDS related conditions in employment, housing, business establishments and other public accommodations. Such discrimination has denied these persons the right to maintain lawful employment, enjoy sanitary housing conditions, seek medical, dental, convalescent and other business services, and have equal access to public accommodations, thereby creating conditions inimical to the public health and safety. Therefore, this ordinance shall become effective upon publication pursuant to Section 281 of the Los Angeles City Charter.

AIDS INFORMATION EXCHANGE is a publication of the United States Conference of Mayors. Ernest N. Morial, President; John J. Gunther, Executive Director; Deborah E. Lamm, Deputy Executive Director; Richard D. Johnson, Editor.

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