

# JACKSON



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## COMMONLY ASKED QUESTIONS & ANSWERS ABOUT THE NON-DISCRIMINATION ORDINANCE

JACKSON, MI - After Jackson City Council voted in favor of a non-discrimination ordinance, set to go in effect March 9, a number of questions about how the new law works have come to the forefront.

In an effort to answer some of those commonly asked questions, city administrators will promote five of them on their Facebook and Twitter page periodically before March 9. Below are the five Q&As - reviewed by city attorneys and staff since the second and final reading of the ordinance Feb. 7.

### **Question #1: Does Federal and State law already provide protections for members of the LGBTQ community?**

No, there are no Federal or State laws that include members of the LGBTQ community as a protected class subject to anti-discrimination statutes and protections.

Under Federal and State law, discrimination is prohibited on the basis of “religion, race, color, national origin, age, sex, height, weight, familial status or marital status.” Discrimination is prohibited in employment, housing, education and access to accommodations for these protected classes only.

Jackson’s new non-discrimination ordinance, which goes into effect March 9, includes these classes as well as two more - “gender identity” and “sexual orientation.” The City’s ordinance protects all classes, not just those in the LGBTQ community.

Jackson is the 42nd community in the State of Michigan to pass a non-discrimination ordinance, with some communities passing similar measures more than four decades ago. These communities passed these laws precisely because Federal and State law does not provide specific protections for members of the LGBTQ community.

### **Question #2: How does the City’s religious freedom exemption work under the NDO?**

There are some exemptions where the NDO will not be applied. Most notable is the religious freedom exemption, which states that a “religious organization” is exempt from the ordinance in most cases.

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Thus, religious organizations may legally restrict employment opportunities, housing and accommodation. Religious organizations include places of worship, religious private schools and subsidiary, non-profit religious-based institutions whose duty is guided by particular religious tenets. Often, these organizations are also tax exempt.

For example: Betsy runs a wedding photography business and is a devout member of a religious organization that believes homosexuality is morally wrong. If Betsy is approached by a homosexual couple to purchase her services for their same-sex wedding and she refuses based on her religious beliefs - refusing in whole or in part because the couple is gay, Betsy has violated the NDO.

The ordinance is not be violated if Betsy was employed by a non-profit, church subsidiary to photograph weddings - or if she were employed by the church in question - as her employer is exempt from the law in this case.

### **Question #3: How does the NDO affect landlords?**

The NDO makes it illegal within the City of Jackson for landlords to discriminate against a person because of his or her sexual orientation and/or gender identity in housing, selling or otherwise making available a non-owner occupied residence or rental home, as well as discrimination against tenants in terms, conditions, maintenance or repair of rentals.

For landlords that own property, live in that home, or are looking for a roommate, there is an exception which allows yfor them to refuse to rent to a member of the LGBTQ community in any arrangement for shared ownership, lease or residency. This also applies if the landlord or property owner has an immediate family member living in his or her non-owner occupied residence.

Thus, if a landlord owns the dwelling or duplex and lives in the dwelling - or has a family member living in the dwelling - they are exempt from the NDO.

However, the property must be advertised in a non-discriminatory manner even if the landlord does not wish to rent to a member of the LGBTQ community.

### **Question #4: What affect does the NDO have on employers and employees?**

Many community members voiced their concern that they may - for example - discharge an employee without knowing the employee is a member of the LGBTQ community, and will consequently face a penalty under the current NDO.

This is not necessarily the case.

If a decision is made to fire an employee based in whole or in part on the employee's sexual orientation or gender identity, then a violation of the ordinance has likely occurred, and the company or individual

responsible may be subject to a civil infraction. If the decision to fire an employee was not based in whole or in part on the employee's sexual orientation, gender identity, or any other protected classes, then the NDO was not violated.

If an LGBTQ individual feels they were discriminated against based on their status in that community, he or she has a right to file a complaint and an investigation will be conducted.

**Question #5: How will the City go about enforcing this new ordinance?**

The City Attorney will review and investigate all complaints filed within 30 days of the alleged discrimination. Once all the information related to the claim is gathered from both sides, the City Attorney will determine whether to issue a civil infraction as a result of the alleged discrimination. The City Attorney will act as the prosecutor and must prove a violation of the NDO through the evidence gathered. If the individual alleged to have discriminated can demonstrate an alternative reason for his or her alleged discriminatory actions, a civil infraction may be avoided.

The City has discretion to recommend charges of up to \$500 per day for violation of the NDO. Fines can be administered for each instance of discrimination. All decisions are made on a case-by-case basis. A judge or magistrate will decide the amount of any fine imposed, unless the parties can come to an agreement.

For example: If a local bar refuses to serve a customer because they are a member of the LGBTQ community, up to a \$500 civil fine can be levied for the one instance of discrimination. Additional fines may occur for additional violations. Further, if that same bar discriminates against the same individual on separate days, it could be subject to multiple fines.

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