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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

No. 96903-5

GLOBAL NEIGHBORHOOD; REFUGEE CONNECTIONS OF
SPOKANE; SPOKANE CHINESE ASSOCIATION; ASIAN PACIFIC
ISLANDER COALITION – SPOKANE; SPOKANE CHINESE
AMERICAN PROGRESSIVES; and the SPOKANE AREA
CHAPTER OF THE NATIONAL ORGANIZATION OF WOMEN,

Respondents,

v.

RESPECT WASHINGTON,

Appellant,

VICKY DALTON, SPOKANE COUNTY AUDITOR, in her official
capacity; and the CITY OF SPOKANE,

Defendants.

ANSWER OF THE CITY OF SPOKANE

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I. INTRODUCTION AND BACKGROUND

This case involves the City of Spokane's ("the City") local initiative process. In May of 2015, the City submitted a similar brief to this Court; albeit a brief urging the Court to grant review of an initiative of a very different political perspective -- one which sought to, among other things, give the Spokane River the right to "exist and flourish" and require a neighborhood vote prior to approving zoning changes.¹ Regardless of the politics of the proponents of an initiative, the City's position is the same - Spokane's local initiative process is important to the City and to its citizens. The City submits this brief with the goal of protecting that power and to inform the Court of its views on issues raised by Appellant Respect Washington.

II. RESTATEMENT OF FACTS

While the City generally agrees with the facts Respect Washington presents, it adds the following to illuminate the issues presented on appeal.

¹ See Answer of the City of Spokane Supporting Discretionary Review dated May 8, 2015, in Spokane Entrepreneurial Ctr. v. Spokane Moves to Amend Constitution, 185 Wn.2d 97 (2016).

A. The City of Spokane and Its Charter-Created Initiative.

The City is a municipal corporation of the first class. Walker v. City of Spokane, 62 Wash. 312, 315 (1911). As such, the City has the constitutional authority to frame its own charter. Id. (*citing* Wash. Const. art. XI, § 10). The City exercised that power and adopted the Spokane City Charter, which has been in effect for over one hundred years.

While the City's legislative authority is "vested in a mayor and a city council," the City "may provide for direct legislation by the people through the initiative...upon any matter within the scope of the powers, functions, or duties of the city." RCW 35.22.200. The City has exercised that discretionary right, and Sections 81, 82, and 125 of its Charter provides for an initiative process. Chapter 2.02 of the Spokane Municipal Code ("SMC") governs how Spokane residents may exercise their charter-granted right of initiative. Thus, while Spokane has chosen to provide its citizens with the ability to directly legislate, it controls the methods and means of how such legislation may be presented to the people.

Under the City's Charter, the number of signatures received determines whether an initiative is eligible to be placed on a special

election ballot or general election.² General municipal elections occur on the first Tuesday following the first Monday in November in the odd numbered years.³

B. Enactment and repeal of Spokane Municipal Code Sections 3.10.040 and 3.10.050.

The Spokane City Council adopted Ordinances C-35164 and C-35167 in December of 2014.⁴ Ordinance C-35164 added SMC

² See Spokane City Charter Section 82(b) entitled “Action by Council Upon Petition”:

Fifteen Per Centum Petition: If such petition be signed by registered and qualified electors in number at least equal to fifteen per centum of the total number of votes cast at the last preceding general municipal election, the city council shall either pass such ordinance without alteration, or submit it to popular vote at the next available special or general municipal election.

Less Than Fifteen Per Centum Petition: If such petition be signed by registered and qualified electors in number at least equal to five but less than fifteen per centum of the total number of votes cast at the last preceding general municipal election, the council shall either pass such ordinance without alteration or submit it to popular vote at the next available general municipal election.

Proposition 1 is a “Less Than Fifteen Per Centum Petition.”

³ RCW 29A.04.330(1) “All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the oddnumbered years.”

⁴ Ordinances C-35164 and C-35167 are attached as Appendix A and B.

section 3.10.040 which, in relevant part, provided “Spokane Police Department Officers and all officers commissioned under the Spokane Police Department shall be prohibited from engaging in bias-based profiling.” The term biased-based profiling was in turn defined as an

[A]ct of a member of the Spokane Police Department or a law enforcement officer commissioned by the Spokane Police Department that relies on...national origin...as the determining factor initiating law enforcement against an individual, rather than an individual’s behavior or other information or circumstances that link a person or persons to suspected unlawful activity.

Ordinance C-35167 added SMC section 3.10.050, entitled “Immigrant Status Information.” Section 3.10.050 provided “unless required by law or court order, no Spokane City officer or employee shall inquire into the immigration status of any person, or engage in activities designed to ascertain the immigration status of any person.” Under the legislation, Spokane Police Department officers were directed that they “shall not investigate, arrest, or detain an individual solely on immigration status.”

In March of 2017, Spokane City Council adopted Ordinance No. C-35485 which repealed SMC sections 3.10.040 and

3.10.050.⁵ The bias-based profiling and immigrant status language was moved to Title 18 of the SMC.

C. The History of Proposition 1.

On November 26, 2014, a document entitled “Initiative Petition to Spokane City Council for REPEAL of Illegal Alien Sanctuary and Harboring,” which included the text “Submitted by: Jackie Murray,” was received by the Spokane City Clerk’s Office. This initiative is referred to hereafter as Proposition 1. On December 10, 2014, the City Attorney’s Office, following email communication with Ms. Murray and pursuant to standard procedure,⁶ forwarded to the City Clerk a version of Ms. Murray’s initiative petition with edited ballot title, a summary of the measure, and revised formatting.⁷ At some time thereafter, Ms. Murray (and/or others) revised the form of the initiative petition which had

⁵ Ordinance C-35485 is attached as Appendix C.

⁶ See SMC 2.02.030(E), attached as Appendix D (“In addition to preparing the ballot title and summary of the measure, the city attorney shall review the proposed measure for matters such as form and style...[and] edit the measure as necessary to correct obvious typographical errors, conform the language to the Spokane Municipal Code format and style, or eliminate ambiguity.”)

⁷ The form of an initiative petition is outlined in SMC 2.02.060, which is attached as Appendix E.

been reviewed by the City Attorney's Office and previously submitted to the City Clerk.⁸

On or about December 8, 2015, Ms. Murray emailed City Council President Ben Stuckart and, in relevant part, stated "I, Jackie Murray, as sponsor of the repeal of sanctuary city petition wish to withdraw the petition. I do not want to go forward with the petition." CP 70.

On February 22, 2016, pursuant to SMC 2.02.100⁹ and § 82 of the City Charter, the City Council adopted Resolution 2016-0008 which requested the Spokane County Auditor to hold a special election on November 7, 2017 as to Proposition 1.

⁸ See correspondence between City Clerk T. Pfister and J. Murray discussing changes to the subject initiative petition at CP 62 & 64. Substantive modification of an initiative petition after assignment of an initiative number was subsequently prohibited by City Ordinance C-35380, adopted on May 9, 2016. SMC 2.02.060(G) now reads, in relevant part, "[a]n initiative petition shall only include language and provision set forth in Chapter 2.02 SMC and may not be altered after being assigned an initiative number by the city clerk pursuant to SMC 2.02.030. The sponsor may only modify the format of the petition sheet to accommodate the size of the petition sheet and the font of the print consistent with SMC 2.02.060 and may not alter the substance of the text or include additional information."

⁹ SMC 2.02.100(B) reads "Unless a motion is made and passed to grant the petition and pass the measure as requested in the initiative petition, the city council adopts a resolution to place the measure on the ballot at the next available election, pursuant to section 82 of the City Charter."

On August 29, 2017, Spokane County Superior Court Judge McKay ruled Proposition 1 exceeded the local initiative power and was moot, and granted Plaintiffs'/Respondents' Motion for Declaratory Relief. On September 1, 2017, the Commissioner of the Court of Appeals denied Respect Washington's Motion for Stay of the trial court's order. On January 29, 2019, the Division 3 Court of Appeals, in a published opinion, affirmed the trial court's grant of an order enjoining placement of Proposition 1 on the ballot.

III. ARGUMENT

Consistent with its stance at the trial court and before the Court of Appeals, the City takes no position as to the merits of Plaintiffs'/Respondents' Motion or the legality of Proposition 1. The City writes separately to express its disagreement with Respect Washington's apparent position that Washington's citizens have the right to vote on every initiative, regardless of content. See Appellant's Pet. for Review at p. 19-20. As the Court of Appeals noted "[t]he right to act directly through referendum or initiative is not an inherent power of the people." Opinion at 40 (*citing Ballasiotes v. Gardner*, 97 Wn.2d 191, 195-96 (1982)).

As the City has previously written, placing invalid initiatives on the ballot harms both the City and the local initiative process.

First, elections cost money. There are costs to City taxpayers to place initiatives on the ballot. If an initiative of questionable merit is placed on the ballot and subsequently determined to be outside the scope of the initiative power, the City will have unnecessarily spent taxpayers' dollars on an election that is without any legal force or effect.¹⁰ The City is concerned with having to expend finite resources on an election that may ultimately amount to nothing more than a nonbinding expression of public opinion. Pre-election review is well-suited to such challenges because “postelection events will not further sharpen the issue (*i.e.*, the subject of the proposed measure is either proper for direct legislation or it is not).” Coppernoll v. Reed, 155 Wn.2d 290, 299 (2005).

Second, the City has significant concerns regarding the integrity of its initiative process and the prospect of voter confusion.

¹⁰ See, e.g., Philadelphia II v. Gregoire, 128 Wn.2d 707, 718 (1996) (noting pre-election review of statewide initiative was proper “to prevent public expense on measures that are not authorized by the constitution”); City of Longview v. Wallin, 174 Wash. App. 763, 782 (Div. 2, 2013) (*citing* Save Our State Park v. Hordyk, 71 Wash. App. 84, 92 (1993) (“We have recognized that requiring a city to place an invalid initiative on the ballot would result in an undue financial burden to local government.”)); City of Yakima v. Huza, 67 Wn.2d 351, 360 (1965) (the “city cannot be ordered to hold an election in this instance because it would be requiring the city to perform a useless act, and to expend public funds uselessly.”)

The California Supreme Court noted that placement of invalid initiatives on the ballot harms the process, stating:

Although real party in interest recites the principles of popular sovereignty which led to the establishment of the initiative and referendum in California, those principles do not disclose any value in putting before the people a measure which they have no power to enact. The presence of an invalid measure on the ballot steals attention, time and money from numerous valid propositions on the same ballot. It will confuse some voters and frustrate others, and an ultimate decision that the measure is invalid, coming after the voters have voted in favor of the measure, tends to denigrate the legitimate use of the initiative procedure.

AFL-CIO v. Eu, 686 P.2d 609, 615 (Cal. 1984). Where a proposed law falls outside the scope of the initiative power, pre-election review protects popular sovereignty by preserving the integrity of the initiative process.

In Spokane Entrepreneurial Ctr., this Court stated “[g]enerally, judicial preelection review of initiatives and referendums is disfavored” **but** reaffirmed that “courts will review local initiatives and referendums to determine, notably, whether ‘the proposed law is beyond the scope of the initiative power.’” 185 Wn. 2d at 104–05 (citing City of Port Angeles v. Our Water–Our Choice!, 170 Wn.2d 1, 7 (2010) (in turn quoting Seattle Bldg. & Constr. Trades Council, 94 Wn.2d 740, 746 (1980))). The “scope” of

the power of statewide and local initiatives is not equivalent. See Protect Pub. Health v. Freed, 192 Wn.2d 477, 482 (2018) (*citing* Coppernoll v. Reed, 155 Wash.2d 290, 301 (2005) (“When engaging in preelection review, statewide initiatives are subject to the scope of the state legislative power, whereas local initiatives are subject to the scope of the local legislative power.”). The people’s right to statewide initiative is established and set forth in the 7th Amendment to the Washington State Constitution, and interpreted broadly to favor the initiative right of the people. *Id.* (*citing* Wash. Const. art. II, § 1). In contrast, the scope of the local initiative power is governed by statutes and county charters, and pre-election challenges are subject to a different analysis. *Id.* (*citing* Our Water—Our Choice!, 170 Wash.2d 1, 8 (2010); Wash. Const. art. XI, § 4 (allowing counties to create a “Home Rule” charter for self-governance, subject to the constitution and laws of the state)). Examples of matters outside the scope of local initiative power include: 1) administrative matters, particularly local administrative matters;¹¹ 2) powers granted by the legislature to the governing

¹¹ Spokane Entrepreneurial Ctr., at 107 (*citing* Our Water – Our Choice!, *supra*, 170 Wn.2d at 8).

body of a city, rather than the city itself;¹² and 3) legislation which conflicts with state law.¹³

Here, Plaintiffs'/Respondents' motion for declaratory relief was granted when the trial court determined that Proposition 1 was: 1) moot because the ordinance numbers had changed from those referenced in Proposition 1; and 2) was administrative in nature, and therefore beyond the scope of the initiative power. CP 313-314. Though the Court of Appeals held that "the validity of Proposition 1 is not moot" (Opinion at 23) it nevertheless affirmed the trial court that Proposition 1 is administrative in nature. Specifically, it held that

Proposition 1 interferes with Spokane Police Department policy to limit the circumstances under which law enforcement officers inquire about immigration and citizenship status. To repeat, an initiative is administrative in nature if it hinders or furthers a plan the local government previously adopted.

Opinion at 48 (*citing* Our Water-Our Choice, *supra*, at 11). If correct, this is a valid basis for Proposition 1 not to appear on the ballot. Refusing to place an invalid initiative on the ballot does not conflict with the free speech rights of Respect Washington or

¹² *Id.* (*citing* City of Sequim v. Malkasian, 157 Wn.2d 251, 261 (2006)).

¹³ *Id.* (*citing* Seattle Bldg, *supra*, 94 Wn.2d at 747).

others; instead it complies with precedent. The City respectfully requests that if the Court determines that Proposition 1 is outside the scope of the local initiative power that this Court affirm the trial court's declaratory judgment that Proposition 1 should not appear on the ballot.

The local initiative power belongs to every citizen in Spokane; not just those groups or individuals seeking placement of initiatives on the ballot. The integrity of the local initiative process is therefore important to the public as a whole. Despite Respect Washington's argument otherwise, using the local initiative process to have citizens vote on something that may not have any legal effect impacts the initiative process and creates the very real possibility of confusing the voters of Spokane. Consequently, the local initiative power is enhanced, not hurt, by protecting the initiative process from futile elections.

III. CONCLUSION

For the reasons stated above, the City respectfully requests that *if* the Court determines that Proposition 1 is outside the scope of the local initiative power, or invalid for other reasons, that this Court affirm the trial court's declaratory judgment that Proposition 1 should not appear on the ballot for a vote by Spokane voters.

Respectfully submitted this 28th day of March, 2019.

/s/Nathaniel J. Odle

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City of Spokane

DECLARATION OF SERVICE

I declare, under penalty of perjury, that on the 28th day of March, 2019, I caused a true and correct copy of the foregoing “**ANSWER OF THE CITY OF SPOKANE,**” to be electronically filed with the Washington State Court of Appeals, Division III, which will send notification of such filing to the following:

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CITY OF SPOKANE'S

APPENDIX

APPENDIX

- A. Ordinance C35164
- B. Ordinance C35167
- C. Ordinance C35485
- D. Spokane Municipal Code 02.02.030
- E. Spokane Municipal Code 02.02.060

Appendix A

Ordinance No. C-35164

AN ORDINANCE relating to biased-free policing; adopting a new section 3.10.040 to chapter 3.10 of the Spokane Municipal Code.

WHEREAS, it is the intent of the City Council to codify in the Spokane Municipal Code provisions pertaining to the current Spokane Police Department policies and procedures related to biased-free policing; and

WHEREAS, the City of Spokane is committed to providing services and enforcing laws in a professional, nondiscriminatory, fair and equitable manner as evidenced by Spokane Police Department Policy Manual No. 402; and

WHEREAS, the Spokane Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural, or other differences of those served as set forth in Spokane Police Department Policy Manual No. 402; - - Now, Therefore,

The City of Spokane does ordain:

Section 1. That there is adopted a new section 3.10.040 to chapter 3.10 of the Spokane Municipal Code to read as follows:

3.10.040 Biased-Free Policing

- A. The City of Spokane is committed to providing services and enforcing laws in a professional, nondiscriminatory, fair and equitable manner.
- B. Spokane Police Department Officers and all officers commissioned under the Spokane Police Department shall be prohibited from engaging in bias-based profiling.
- C. Bias-based profiling is defined as an “act of a member of the Spokane Police Department or a law enforcement officer commissioned by the Spokane Police Department that relies on actual or perceived race, national origin, color, creed, age, citizenship status, gender, sexual orientation, gender identity, disability, socio-economic status, or housing status or any characteristic of protected classes under federal, state or local laws as the determinative factor initiating law enforcement action against an individual, rather than an individual’s behavior or other information or circumstances that links a person or persons to suspected unlawful activity.”
- D. The Spokane Police Department shall maintain policies consistent with this section.

PASSED by the City Council on October 20, 2014

Ben Fildes
Council President

Attest:

Teri Hefner
City Clerk

Dawn A. Cannon
Mayor

Approved as to form:

Michael W. Pissolo
Assistant City Attorney

11.06.2014
Date

12.06.2014
Effective Date



Appendix B

Ordinance No. C35167

AN ORDINANCE relating to use of immigration status information; adopting a new section 3.10.050 to chapter 3.10 of the Spokane Municipal Code.

WHEREAS, it is the intent of the City Council to codify in the Spokane Municipal Code provisions pertaining to the current Spokane Police Department policies and procedures related to use of immigration status information; and

WHEREAS, all individuals, regardless of their immigration status, must feel secure that contacting law enforcement will not make them vulnerable to deportation as set forth in Spokane Police Department Policy Manual No. 428.4; and

WHEREAS, unless immigration status is relevant to another criminal offense or investigation, the fact that an individual is suspected of being an undocumented alien shall not be the sole basis for contact, detention, or arrest as set forth in Spokane Police Department Policy Manual No. 428.3.1; and

WHEREAS, the immigration status of individuals alone is generally not a matter for police action. It is incumbent upon all employees of this department to make a personal commitment to equal enforcement of the law and equal service to the public regardless of immigration status. Confidence in this commitment will increase the effectiveness of the [City of Spokane] t in protecting and serving the entire community as set forth in Spokane Police Department Policy Manual No. 428.1; - - Now, Therefore,

The City of Spokane does ordain:

Section 1. That there is adopted a new section 3.10.050 to chapter 3.10 of the Spokane Municipal Code to read as follows:

3.10.050 Immigrant Status Information

- A. Unless required by law or court order, no Spokane City officer or employee shall inquire into the immigration status of any person, or engage in activities designed to ascertain the immigration status of any person.
- B. Spokane Police Department officers shall have reasonable suspicion to believe a person has been previously deported from the United States, is again present in the United States, and is committed or has committed a felony criminal-law violation before inquiring into the immigration status of an individual.

C. The Spokane Police Department shall not investigate, arrest, or detain an individual based solely on immigration status.

D. The Spokane Police Department shall maintain policies consistent with this section.

PASSED by the City Council on 10.27, 2014.

Ben Stucke
Council President

Attest:

Teri H. Roberts
City Clerk

Approved as to form:

Michael J. Piroch
Assistant City Attorney

David A. Cannon
Mayor

11.13. 2014
Date

12.12. 2014
Effective Date



Appendix C

ORDINANCE NO. C35485

An ordinance relating to human rights protections; repealing chapters 01.06, 01.08, 10.08E, and 10.18; sections 03.10.040, 03.10.050, and 03.10.060; enacting a new Title 18; and amending sections 01.05.210, 04.10.040 and 04.10.050 of the Spokane Municipal Code.

WHEREAS, human rights provisions are scattered throughout the Spokane Municipal Code; and

WHEREAS, protections for human rights are fundamental to the welfare of all people in Spokane; and

WHEREAS, the City Council recognizes the utility of grouping all provisions which contain and describe the human rights protections of the Spokane Municipal Code in the same title; and

WHEREAS, the City of Spokane reaffirms its commitment to the protection of the human rights of all those living in Spokane.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That chapters 01.06, 01.08, 10.08E, and 10.18, and sections 03.10.040, 03.10.050, and 03.10.060 of the Spokane Municipal Code are hereby repealed.

Section 2. That there is enacted a new Title 18 of the Spokane Municipal Code to read as follows:

Title 18 Human Rights
Chapter 18.01 Law Against Discrimination
Section 18.01.010 Findings

The City of Spokane finds that discrimination based on race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, the presence of any sensory, mental or physical disability as defined by the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq, and/or the Washington State Law Against Discrimination, Chapter 49.60 RCW, or the receipt of, or eligibility for the receipt of, funds from any housing choice or other subsidy program or alternative source of income poses a substantial threat to the health, safety and general welfare of the citizens of Spokane. The City deems it necessary and proper to enact a local ordinance to address these issues.

Section 18.01.020 Purpose and Intent

- A. The City values the dignity and worth of all human beings and is committed to promoting justice, equity and an inclusive environment for all by respecting cultural and individual diversity and fostering mutual understanding among all people regardless of race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, the presence of any sensory, mental or physical disability as defined by the Americans with Disabilities Act and/or the Washington State Law Against Discrimination, or the receipt of, or eligibility for the receipt of, funds from any housing choice or other subsidy program or alternative source of income.
- B. It is the intent of the City that all people have an equal opportunity to participate fully in the life of the City and that discriminatory barriers to equal participation in employment, housing, and public accommodations be removed. The City has a compelling interest in eradicating and preventing such discrimination and in ensuring equal opportunity in employment, housing, and public accommodations. This Title 18 represents the least restrictive means of achieving the City's objectives.
- C. The provisions of this Title 18 are to be broadly and liberally construed to effectuate this Title's remedial purpose and the City's legislative intent.
- D. These sections are not intended to establish or require affirmative action or quotas of any kind, or to infringe upon the authority vested in the civil service commission and City departments pursuant to the City Charter.
- E. By enacting this title, the City expresses its intent to ensure that Spokane generally, as well as the City itself, is free from bias or discrimination on the basis of race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, the presence of any sensory, mental or physical disability as defined by the Americans with Disabilities Act and/or the Washington State Law Against Discrimination, and free from sexual harassment.
- F. Nothing in this chapter shall constitute a cause of action under state law or form a basis for relief in the state courts. It is the intent of this chapter that all causes of action for violations of the chapter shall lie with the City of Spokane's Hearing Examiner, Municipal Court, or Superior Court, as specified in this Title 18.
- G. Nothing in this Title 18 shall be deemed to deny any person the right to institute any action or to pursue any civil or criminal remedy for the violation of such person's civil rights. Nothing in this Title 18 shall limit or expand any cause of action available to any person under federal or state law.

Section 18.01.030 Definitions

- A. "Commission" means the Spokane Human Rights Commission.
- B. "Data management protocols" means the procedures governing how data collected by surveillance equipment will be retained, stored, indexed and accessed. Information comprising data management protocols includes, at a minimum, the information required in SMC 18.04.020.

- C. "Disability" means the presence of a sensory, mental, or physical impairment that, whether temporary or permanent, common or uncommon, mitigated or unmitigated, a limitation or not on the ability to work generally or work at a particular job, or a limitation or not on the ability to engage in any other activity within the scope of this Title 18:
1. is medically cognizable or diagnosable; or
 2. exists as a record or history; or
 3. is perceived to exist whether or not it exists in fact.
 4. For the purposes of reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:
 - a. The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions or employment; or
 - b. The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.
 5. For purposes of this definition, a limitation is not substantial if it has only a trivial effect.
 6. For purposes of housing, a "reasonable accommodation" is an adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, where there is an identifiable relationship or nexus between the requested accommodation and the person's disability.
- D. "Discrimination" means different or unequal treatment because of race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, disability, the use of a guide dog or service animal, or the use or eligibility for the use of housing choice or other subsidy program or alternative source of income. "Discriminate" means to treat differently or unequally because of race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, the presence of any sensory, mental or physical disability as defined by the Americans with Disabilities Act and/or the Washington State Law Against Discrimination, or the use or eligibility for the use of housing choice or other subsidy program or alternative source of income. For purposes of this definition, it is discriminatory to fail to offer reasonable accommodation in housing or employment to an otherwise qualified applicant or employee with a disability, absent a showing that the accommodation would impose an undue hardship.

- E. "Dog guide" means a dog that is specifically trained for the purpose of guiding persons who are blind or a dog trained for the purpose of assisting persons with disabilities.
- F. "Domestic Violence Victim Status" means a family or household member, as defined in RCW 10.99.020 (3), who has been subjected to domestic violence as defined in RCW 10.99.020 (5) or who is a victim of sexual assault as defined in RCW 70.125.030.
- G. "Employee" means an individual who works for wages, salary or commission, or a combination thereof, in the service of an employer, but does not include a person employed by a parent, grandparent, brother, sister, spouse or child. The term includes an individual who is seeking or applying for employment. This definition does not include independent contractors.
- H. "Employer" means any person acting in the interest of an employer, directly or indirectly, who employs employees within the City, or who solicits individuals within the City to apply for employment within the City, including the City of Spokane and all its boards, commissions and authorities.
- I. "Entities under common ownership" means two or more legal entities, such as corporations, limited liability companies, partnerships, and the like which are: owned by the same person(s); in which the same person(s) serve as officers and/or directors; or the majority of one of which is owned by one or more of the others. For example, if a single person owns controlling interests in several limited liability companies, all of those limited liability companies are entities under common ownership.
- J. "Family with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.
- K. "Federally-recognized tribe" means an entity listed on the Department of the Interior's list under the Federally Recognized Indian Tribe List Act of 1994, which the Secretary currently acknowledges as an Indian tribe and with which the United States maintains a government-to-government relationship.
- L. "Gender Identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.
- M. "Housing choice or other subsidy program or alternative source of income" means, without limitation: (i) any short or long term federal, state or local government, private nonprofit, or other assistance program in which a tenant's rent is paid either partially by the program (through a direct arrangement between the program and the owner or lessor of the real property), and partially by the tenant or completely by the program; (ii) HUD-Veteran Affairs Supportive Housing (VASH) vouchers, Housing and Essential Needs (HEN) funds; and short-term rental assistance provided by Rapid Rehousing subsidies; and (iii)

lawful, verifiable income derived from sources other than wages, salaries, or other compensation for employment, including, without limitation, funds received from Social Security benefits, supplemental security income, unemployment benefits, other retirement programs, child support, the Aged, Blind or Disabled Cash Assistance Program, Refugee Cash Assistance, and any federal, state, local government, private, or nonprofit-administered benefit program, financial aid for college students, and per capita payments or distributions received from a federally-recognized tribe.

- N. "Impairment" includes, without limitation, any:
1. physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin and endocrine; or
 2. mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- O. "Labor organization" means an organization which is constituted for the purpose, in whole or in part, of collective bargaining or for dealing with an employer concerning grievances, terms or conditions of employment, or for other mutual aid or protection in connection with an employer.
- P. "Marital status" means the status of being married, single, separated, divorced or widowed.
- Q. "National origin" includes ancestry.
- R. "Operational protocols" means the procedures governing how and when surveillance equipment may be used and by whom and includes, at a minimum, the information required in SMC 18.04.010.
- S. "Person" includes:
1. A natural individual, partnership, association, organization, corporation, cooperative, legal representative, trustee and receiver, and any group of persons acting in concert;
 2. an owner, lessee, proprietor, manager, agent or employee, of a person, whether consisting of one or more natural persons;
 3. entities under common ownership; and
 4. any political or civil subdivisions of the City and any agency or instrumentality of the City or of any political or civil subdivision thereof.

This definition does not include the federal government or any federally-recognized tribe.

- T. "Place of public resort, accommodation, assemblage or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human

remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps, provided that nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this section; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution.

- U. "Profiling" means actions of the Spokane Police Department, its members, or officers commissioned by the Spokane Police Department to rely on actual or perceived race, religion, national origin, color, creed, age, citizenship status, immigration status, refugee status, gender, sexual orientation, gender identity, disability, socio-economic status, housing status, or membership in any protected class under federal, state or local law as the determinative factor in initiating law enforcement action against an individual, rather than an individual's behavior or other information or circumstances that links a person or persons to suspected unlawful activity.
- V. "Refugee status" means the status of a person who, under the provisions of 8 USC 1101(a)(42), is outside a country of that person's nationality or, in the case of a person having no nationality, is outside any country in which that person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.
- W. "Service animal" means an animal that is trained for the purposes of assisting or accommodating a person with a disability.
- X. "Sex" means gender.
- Y. "Sexual orientation" means heterosexuality, homosexuality, bisexuality and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

Z. "Surveillance equipment" means equipment capable of capturing or recording data, including images, videos, photographs or audio operated by or at the direction of a City department that may deliberately or inadvertently capture activities of individuals on public or private property, regardless of whether "masking" or other technology might be used to obscure or prevent the equipment from capturing certain views. "Surveillance equipment" includes drones or unmanned aircraft and any attached equipment used to collect data. "Surveillance equipment" does not include the following equipment which are in use by the City of Spokane as of March 1, 2017:

1. handheld or body-worn devices (e.g., "bodycams") used by law enforcement;
2. cameras installed in or on a police vehicle (e.g., "dashcams");
3. cameras installed in or on any City-owned vehicle, including without limitation fire trucks, emergency vehicles, utility vehicles and street maintenance vehicles, which are intended to ensure the safe operation of the vehicle;
4. cameras installed along a public right-of-way to record traffic patterns and/or traffic violations;
5. cameras intended to record activity inside or at the entrances to City buildings for security purposes; or
6. cameras installed to monitor and protect the physical integrity of City infrastructure, including without limitation fire stations and utility service facilities.

Section 18.01.040 Reprisal or Retaliation

It is a violation of this chapter for any person to engage in discrimination as defined in this Title 18, engage in a reprisal or retaliation against an individual because that individual has in good faith opposed the use of a practice forbidden by this Title 18, or has filed a complaint, testified, assisted or participated in an investigation, proceeding or hearing under this Title 18 or has attempted to do so.

Section 18.01.050 Administration

A. Initiation.

An individual claiming to be aggrieved by a practice prohibited by SMC 18.01.040, chapter 18.02 SMC, or chapter 18.03, SMC may, within the time limit of SMC 18.01.070, file a complaint on forms made available for the purpose by the staff of the commission.

B. Complaint.

A complaint filed by a person claiming to be aggrieved by a practice prohibited by SMC 18.01.040, chapter 18.02 SMC, or chapter 18.03 SMC, is reviewed by the City to determine whether the allegations stated on the face of the complaint, if true,

would be a prohibited practice as stated in SMC 18.01.040, chapter 18.02, SMC or chapter 18.03, SMC. Complaints shall be processed as follows:

1. Complaints that do not state violations of SMC 18.01.040, chapter 18.02 SMC, or chapter 18.03 SMC shall be dismissed immediately.
2. Complaints that claim a violation of state or federal law shall be referred to the appropriate state or federal agency.
3. Complaints that claim a violation of a prohibited practice established only in this Title 18 shall be referred to a Washington State Dispute Resolution Center established under chapter 7.75, RCW, or by a mediator agreed upon by all parties, within thirty days of the filing of the complaint. Mediation sessions are not open to the public. If the mediation resolves the complaint, the mediator will notify the City of the resolution and the complaint file will be closed.
4. Complaints that are not resolved through mediation shall be evaluated by a third party entity to determine if there is a factual basis for the complaint. If such a factual basis exists, the complaint shall be submitted to the City Prosecutor for possible prosecution as a civil infraction pursuant to chapter 1.05 SMC. If a third party review finds no factual basis for the complaint, the complaint shall be dismissed.

C. Administrative appeal.

Any person whose complaint has been dismissed pursuant to SMC 18.01.050 B(1) may appeal the dismissal to the hearing examiner, who shall review the complaint and the decision to dismiss the complaint under an abuse of discretion standard of review. The hearing examiner may affirm the dismissal, reverse the dismissal, or remand the complaint to be processed as set forth in SMC 18.01.050(B).

D. Judicial review.

Any person who is aggrieved by the decision of the hearing examiner on administrative appeal under this section may institute an action for judicial review in the Superior Court pursuant to RCW 49.60.330.

E. The commission and its staff shall prioritize its resources to focus on resolving complaints which are not within the jurisdiction of government or non-profit agencies other than the commission.

- F. The City shall not take any enforcement action based on discrimination due to the use of "housing choice or other subsidy program or alternative source of income" as defined in this Title 18 before July 1, 2017. The City Council shall name an ad hoc stakeholder group to make recommendations to the City Council for amendments to Chapter 18.03, SMC, concerning the use of housing choice or other subsidy programs or alternative sources of income.

Section 18.01.060 Penalty for Violation

The commission of an act of discrimination as defined in this Title 18 is punishable as a Class 1 civil infraction pursuant to chapter 01.05, SMC.

Section 18.01.070 Period of Limitation

No complaint shall be accepted nor action taken unless the complaint is filed within six months from the date of the occurrence of the alleged unlawful practice. When the alleged unlawful practice is of a continuing nature, the limitation period will not commence to run until the unlawful practice has ceased or when the aggrieved party discovered the practice, whichever is later.

Section 18.01.080 Criminality

Nothing in this chapter shall be construed to protect criminal conduct.

Chapter 18.02 Nondiscrimination in Employment Practices

Section 18.02.010 Employment

- A. No person shall discriminate by refusing to hire, employ or promote, by barring or discharging from employment, in compensation or terms, conditions or privileges of employment, unless discrimination results from a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business.
- B. No person shall discriminate by printing or circulating, or by causing to be printed or circulated, any statement, advertisement or publication, or by using any employment application form, or by making an inquiry in connection with prospective employment which expresses, directly or indirectly, any discriminatory limitation or specification, unless such limitation or specification is based upon a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business, or unless otherwise provided by state or federal law.
- C. No person shall discriminate by classifying or referring for employment, or by failing or refusing to refer for employment, or otherwise, unless such classification or referral results from a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business, or where such classification or referral is allowed under state or federal law;

Section 18.02.020 Labor Organizations

No person shall discriminate by excluding or expelling individuals from membership in a labor organization or otherwise to attempt to influence members of the organization from exercising or preserving their rights under this chapter.

Section 18.02.030 Assisting in Discrimination

No person shall, with the knowledge or assent of an employer, to assist, induce, compel or coerce the doing of any acts of discrimination, or to attempt to do so.

Section 18.02.040 Vocational, Professional, or Trade Schools

No person shall discriminate in admission of or instruction to any otherwise qualified person in the operation of any vocational, professional, or trade school located within the City and licensed to operate in Washington.

Section 18.02.050 Apprenticeship and Occupational Training Programs

No person shall discriminate by denying or withholding the right to be admitted to or participate in a guidance program, apprentice training program, on-the-job training program or other occupational training or re-training program in the terms, conditions or privileges of such programs; by printing or circulating, or causing to be printed or circulated, any statement, advertisement or publication, or by using any application form, or by making an inquiry in connection with such programs which expresses, directly or indirectly, any limitation or specification, or intent to make such limitation or specification or discrimination, unless based upon a bona fide occupational qualification. For purposes of this subsection (G), receipt or alleged receipt of treatment for a mental disorder is not evidence of a person's inability to perform the duties of a particular job or position.

Section 18.02.060 Employment of Blind and Hearing-Impaired People in Public Service

To accomplish the policy goals stated in SMC 18.06.010, otherwise qualified persons who are blind, have a visual handicap, or have a hearing impairment or other disability shall be employed by the City of Spokane on the same terms and conditions as persons without disabilities, unless it is shown that the particular disability prevents the performance of the work involved.

Section 18.02.070 Exemptions from Employment Discrimination

A. This chapter does not apply to any religious or sectarian organization not organized for private profit.

- B. It is not a violation of this chapter for an employer, labor organization or local joint committee controlling apprentice training programs to select an apprentice on the basis of the ability to complete the required apprenticeship training before attaining the age of seventy years;
- C. It is not a violation of this chapter for an employer or labor organization to provide or make financial provisions for child-care services of a custodial or other nature to its employees or members who are responsible for a minor child, meaning having custody or legal guardianship of a minor child or acting in loco parentis to the child.
- D. The compulsory retirement of an employee at any age is not a violation of this chapter if lawful under state or federal law.
- E. It is not a violation of this chapter to act to accomplish the purposes and goals of an affirmative action plan of the employer, employment agency or labor organization.
- F. Discrimination on the basis of age shall not be applicable with respect to individuals who are under forty years of age.

Chapter 18.03 Nondiscrimination in Housing Practices
Section 18.03.010 Prohibited Practices

- A. It is a violation of this chapter for any person to discriminate by:
 - 1. refusing to sell, lease, rent or otherwise make available any offered real property;
 - 2. expelling a purchaser, lessee or renter from any real property;
 - 3. altering the price, terms, conditions or privileges relating to the sale, rental, lease or occupancy of real property, or in the furnishing of any facilities or services in connection with real property;
 - 4. attempting to discourage the sale, rental or lease of any real property to a purchaser, lessee or renter;
 - 5. publishing, circulating, issuing or displaying, or causing to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind relating to the sale, rental or lease of real property which indicates any preference, limitation or specification with respect thereto;
 - 6. assisting, inducing, compelling or coercing another person to commit an act or engage in a practice that violates this subsection;
 - 7. coercing, intimidating, threatening or interfering with any person in the exercise or enjoyment of, or on account of having aided or encouraged any other person in the exercise of, any right granted or protected by this subsection.
- B. No person whose business includes engaging in residential real estate related transactions may discriminate in making available or in the terms and conditions of such a transaction. "Residential real estate related transaction" means the making or purchasing of loans or providing other financial assistance for

purchasing, construction, improving, repairing or maintaining a dwelling or securing residential real estate, or the selling, brokering or appraising of residential real property.

- C. No real estate licensee may accept or retain a listing of real property for sale, lease or rental with an understanding that a purchaser may be discriminated against with respect to the sale, rental or lease.
- D. No person may for profit induce or attempt to induce any other person to sell or rent any dwelling by representations regarding entry or prospective entry into the neighborhood of a person or person of a particular race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, or the presence of any sensory, mental or physical disability as defined by the American with Disabilities Act and/or the Washington State Law Against Discrimination, Chapter 49.60 RCW.

Section 18.03.020 Exemptions from Housing Discrimination

- A. The provisions of this chapter do not apply to the owner of a single-family house rented or leased by the owner if: (i) the owner does not own or have an interest in the proceeds of the rental or lease of more than one single-family house at one time; and (ii) the owner also occupies the single-family house rented or leased.
- B. Nothing in this Title 18 prohibits the denial of housing on the basis of reasonable, non-discriminatory factors, including, without limitation, rental history.

Chapter 18.04 Safeguards on the Use of Surveillance Equipment

Section 18.04.010 City Council Approval for Acquisition and Use of Surveillance Equipment; Operational and Data Management Protocols

- A. No City department or agency shall acquire surveillance equipment without the City Council first adopting a resolution approving the proposed acquisition.
- B. No surveillance equipment may be deployed or installed without the City Council first adopting a resolution approving the operational protocols for such surveillance equipment. The proposed operational protocols shall contain, at a minimum, the following information, as well as any other information specifically requested by the City Council:
 - 1. A clear statement of the purpose and use of the proposed surveillance equipment;
 - 2. A simple and non-technical description of the type of surveillance equipment proposed to be acquired and used;
 - 3. The intended specific location(s) of the proposed surveillance equipment if it is to be affixed to a building or other structure;
 - 4. A narrative description of how and when the proposing department would use the surveillance equipment, such as whether the surveillance equipment will be operated continuously or used only under specific

- circumstances, and whether the surveillance equipment will be installed permanently or temporarily;
5. A clear description of the actual or potential privacy and anonymity rights affected (if any) and a plan to minimize and mitigate the risk that the use of the surveillance equipment will infringe on personal privacy and anonymity, and to limit the risk of potential abuse;
 6. A clear description of how and when data will be collected and retained and who will have access to any data captured by the surveillance equipment;
 7. A clear description of the extent to which activity will be monitored in real time as data is being captured and the extent to which monitoring of historically recorded information will occur;
 8. A public outreach plan for each community in which the department intends to use the surveillance equipment that includes opportunity for public meetings, a public comment period, and written agency response to these comments;
 9. If a department is requesting to acquire or use drones or other unmanned aircraft, a description of the specific circumstances under which they may be deployed, along with clearly articulated authorization protocols;
 10. If more than one department will have access to the surveillance equipment or the data captured by it, one department shall be named the lead department and shall have the responsibility for maintaining the equipment and ensuring compliance with all related protocols. If the lead department intends to delegate any related responsibilities to another department, these responsibilities and associated departments and personnel shall be clearly identified;
 11. A description of whether and how any City department intends to share access to the surveillance equipment or the collected data with any other government entity; and
 12. A description of the training to be provided to operators or users of the surveillance equipment.
- C. Upon review of the information required under this section, and any other information deemed relevant by the City Council, the City Council may, by resolution, (1) approve the acquisition and operation of surveillance equipment, (2) approve the acquisition of surveillance equipment and require future city council approval for operations, (3) deny the acquisition or use of surveillance equipment for the purpose(s) proposed, or (4) take any other actions it deems necessary or proper under the circumstances, including imposing additional restrictions or conditions on the acquisition or use of surveillance equipment.

Section 18.04.020 Data Management Protocols for Surveillance Equipment

- A. Prior to operating surveillance equipment acquired after October 4, 2013, City departments shall submit written protocols for managing data collected by surveillance equipment to the City Council for approval by resolution. Data management protocols shall address, at a minimum, the following:

1. The retention period for which any data collected by surveillance equipment;
2. The methods for storing recorded information, including how the data is to be labeled or indexed, so as to allow department personnel to readily search and locate specific data that is collected and determine with certainty that data was properly deleted, consistent with applicable law;
3. How the data may be accessed, including who will be responsible for authorizing access, who will be allowed to request access, and acceptable reasons for requesting access;
4. A viewer's log or other comparable method to track viewings of any data captured or collected by the surveillance equipment, including the date, time, the individuals involved, and the reason(s) for viewing the records;
5. A description of the individuals who have authority to obtain copies of the records and how the existence and location of copies will be tracked;
6. A general description of the system that will be used to store the data; and
7. A description of the unit or individuals responsible for ensuring compliance with SMC 18.04.020 and when and how compliance audits will be conducted.

Section 18.04.030 Acquisition and Use of Surveillance Equipment Related to Law Enforcement Investigations

Notwithstanding the provisions of this chapter, City departments may acquire or use surveillance equipment, excluding drones, for use on a temporary basis for criminal investigative purposes or pursuant to a lawfully issued search warrant, or under exigent circumstances as defined in controlling case law.

Section 18.04.040 Exemptions

This chapter does not apply to surveillance equipment installed on park property under the jurisdiction of the Park Board and library property under the jurisdiction of the Library Board; provided, that these exemptions do not apply to surveillance cameras mounted on drones or other unmanned aircraft.

Section 18.04.050 Prior Use of Surveillance Equipment

- A. Unless the City Council has previously approved operational protocols by resolution, each City department which operated surveillance equipment prior to October 4, 2013 shall propose written operational protocols consistent with SMC 18.04.010 no later than May 1, 2017 for City Council review and consideration for approval by resolution.
- B. Each department which operated surveillance equipment prior to October 4, 2013 shall adopt written data management protocols consistent with SMC 18.04.020 no later than May 1, 2017 and submit these protocols to the City council for review and consideration for approval by resolution.

Section 18.04.060 Application to City Contractors and Agents

This chapter applies to any contractors or agents of any City department retained, in full or in part, for the purpose of utilizing surveillance equipment. The City department responsible for the retention of the contractor or agent shall be responsible for ensuring that the requirements of this chapter have been met.

Chapter 18.05 Protections for Homeless People

Section 18.05.010 Legislative Findings and Purposes

- A. Centers for the protection of homeless individuals and families during inclement weather is vital, whether due to extreme cold, extreme heat, poor air quality conditions, severe storms, or other types of civil emergencies.
- B. The City Council has, from time to time in the past, passed resolutions stating the guidelines and triggering conditions for the activation of emergency warming centers in the City of Spokane, noting that extreme weather conditions can create an extreme danger for homeless people in Spokane and puts a great strain on service providers.
- C. This chapter is intended to codify and supersede those prior resolutions, including, most recently, Resolution No. 2014-0018 (Feb. 24, 2014).

Section 18.05.020 Activation Criteria

- A. The activation criteria for inclement weather centers in the City of Spokane as follows:
 - 1. Warming centers will be activated on each day during which the temperature is predicted by the National Weather Service to be 32 degrees Fahrenheit or lower and designated shelter space was at ninety percent (90%) capacity or greater during the previous night. The City may, by contract with its center provider, raise the activation temperature for warming centers, but in no event will the activation temperature be higher than thirty-two (32) degrees Fahrenheit.
 - 2. Cooling centers will be activated when the temperature is predicted by the National Weather Service to be 100 (one hundred) degrees Fahrenheit or higher for three (3) consecutive days or more.
 - 3. Safe air centers will be activated for any day on which the Spokane Regional Clean Air Agency forecasts the current air quality index to reach 250 or higher.
 - 4. Emergency centers may also be activated by the Mayor or the Mayor's designee on any day in which a civil emergency or extreme storm or weather condition exists or is predicted to occur and which, in the determination of the Mayor or the Mayor's designee, poses a severe threat to the health or safety of homeless individuals and families in the City of Spokane.

- B. The Community Health and Human Services ("CHHS") Department shall implement the appropriate policies and procedures, including without limitation making funding requests; recommendations regarding center providers; the designation of specific locations to be used as warming, cooling, and safe air centers; and the arrangement of other appropriate measures to the City Council in order to carry out the specific provisions and intent of this section.

Chapter 18.06 Protections for Persons with Disabilities
Section 18.06.010 Declaration of Policy

- A. It is the policy of the City of Spokane to encourage and enable people with disabilities to participate fully in the social and economic life of the City, and to engage in remunerative employment.
- B. As citizens, people with disabilities have the same rights as persons without disabilities to purchase any service, commodity or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, sexual orientation, national origin or with any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability, to be treated as not welcome, accepted, desired or solicited.
- C. People with disabilities are entitled to full and equal accommodations, advantages, facilities and privileges on common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats and all other public conveyances, as well as in hotels, lodging places, places of public resort, accommodation, assemblage or amusement, and all other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

Section 18.06.020 Protections for Persons Using a White Cane, a Dog Guide or a Service Animal

- A. The driver of a vehicle approaching a pedestrian who: (i) is totally or partially blind and who is carrying a cane predominantly white in color (with or without a red tip); (ii) is totally or partially blind or who has a hearing impairment and is using a dog guide; or (iii) has another physical disability and is using a service animal shall take all necessary precautions to avoid injury to such pedestrian.
- B. Any driver who fails to take the necessary precautions shall be liable in damages for any injury caused such pedestrian.
- C. It shall be unlawful for the operator of any vehicle to drive into or upon any crosswalk while there is on such crosswalk, a person described in subsection A

of this section who is crossing or attempting to cross the roadway, if such person is using a white cane, a dog guide, or a service animal.

- D. The failure of any person described in subsection A to signal shall not deprive him of the right-of-way accorded by other laws.

Section 18.06.030 Protections for Persons With a Disability Not Carrying a White Cane, Using a Dog Guide, or a Service Animal

A pedestrian who is totally or partially blind and who is not carrying a white cane or a pedestrian who is totally or partially blind or has a hearing impairment but is not using a dog guide in any of the places, accommodations or conveyances listed in SMC 18.06.020, shall have all of the rights and privileges conferred by law on other persons.

Section 18.06.040 Misrepresentation in the Use of White Cane, Dog Guide or Service Animal

It shall be unlawful for any pedestrian who is not totally or partially blind to use a white cane or any pedestrian who is not totally or partially blind or does not have a hearing impairment to use a dog guide or any person who does not have a disability as defined in this chapter to use a service animal in any of the places, accommodations or conveyances listed in SMC 18.01.030(Q), for the purpose of securing the rights and privileges accorded by this chapter to persons with total or partial blindness, hearing impairment or who have other disabilities.

Section 18.06.050 Penalty

Any person who denies or interferes with admittance to or enjoyment of the public facilities enumerated in SMC 18.01.030(Q), or otherwise interferes with the rights of a person with total or partial blindness, hearing impairment or other disability as set forth in SMC 18.01.030(C), shall be guilty of a misdemeanor.

Chapter 18.07 Police Practices

Section 18.07.010 Bias-Free Policing

- A. The City of Spokane is committed to providing services and enforcing laws in a professional, nondiscriminatory, fair and equitable manner.
- B. The Spokane Police Department, its officers, employees, and all officers commissioned under the Spokane Police Department are prohibited from engaging in profiling as the term is defined in this SMC 18.01.030(7) ^{71440 8/29/17}
- C. The Spokane Police Department shall maintain policies consistent with this section.

Section 18.07.020 Immigration Status Information

- A. Unless required by law or court order, no officer, agent, or employee of the City of Spokane shall inquire into the immigration or citizenship status of any person, or engage in activities designed to ascertain the immigration status of any person.
- B. Spokane Police officers may not inquire into the immigration or citizenship status of an individual unless they have reasonable suspicion to believe a person: (i) has been previously deported from the United States, (ii) is again present in the United States, and (iii) is committing or has committed a felony criminal law violation.
- C. The Spokane Police Department shall not investigate, arrest, or detain an individual based solely on immigration or citizenship status.
- D. The Spokane Police Department shall maintain policies consistent with this section.

Section 18.07.030 City Religious Registries Prohibited

- A. Neither the city, nor any of its employees, departments, or officials may create a registry, database, or any other type of list or compilation, or implement a program that requires, or has the effect or requiring, people to register on the basis of religious affiliation or conduct; nor shall any City employee, department, or official conduct any study or analysis related to the collection of such information, or related to the establishment or utilization of any such registry, database, list, or compilation.
- B. Nothing in this section shall be construed to prohibit the collection of information voluntarily provided by individuals, such as voluntary ethnicity, gender, race, or national origin information, such as on applications for City employment or appointment to a board or commission, or any other voluntary information gathering activities which are specifically required or allowed under state or federal law.

Section 3. That section 01.05.210 of the Spokane Municipal Code is amended to read as follows:

Section 01.05.210 Penalty Schedule - Personal Conduct

- A. For each subsequent violation by a person the classification of infraction advances by one class.
- B. Infraction/Violation Class.

SMC 1.05.210		Penalty Schedule - Personal Conduct	
Infraction		Violation Class	
IFC 307.1 (SMC 1.06.040)	Open Burning Act of Discrimination		1 4))

SMC 10.03.100	Offenses Relating to Safety and Sanitation	4
SMC 10.03.110	Allow Animal in Riverfront Park or Special Permitted Event Area when Banned	3
SMC 10.08.010	Deposit of Tobacco Product Capable of Being Lit	\$500
SMC 10.08.010	Littering, Unlawful Disposal of Rubbish	1
SMC 10.08D.080		
SMC 10.08D.090(C)		
SMC 10.08D.120 – First violation within a one year period	Noise Control	2
SMC 10.08.055	Purchase, Possession of Tobacco by Minor	3
SMC 10.08.100		
SMC 10.08.120	Homeless Encampment	1
SMC 10.08.140(B-D)		
SMC 10.08.246	Liquor Purchase by Apparently Intoxicated Person	\$500
SMC 10.08A.040(D)	Failure to Respond – Chronic Nuisance	1
SMC 10.10.040		
SMC 12.06.050 –	Offending Peace and Order in Public Park	1
SMC 12.06.080		
SMC 10.11.042	Not Having or Displaying Concealed Pistol License	1
SMC 10.15.115	Selling or Giving Drug Paraphernalia	1
SMC 10.15.220	Open Possession/Consumption of Marijuana, Usable Marijuana or Marijuana-Infused Products	3
SMC 10.17.030	Helmet Safety – Failure to Wear Approved Helmet	4
SMC 10.17.040	Helmet Safety – Failure to Require Wearing of Approved Helmets at Special Events	4
SMC 10.17.050	Helmet Safety – Failure to Rent, Lease, or Loan Approved Helmet	4
SMC 10.17.060	Helmet Safety – Failure to Sell or Offer to Sell Approved Helmet	4
SMC 10.24.060	Property Damage by Animal	3
SMC 10.24A140	Animal Safety – Animal Left in Vehicle or Enclosed Space	2
SMC 10.33A.055	Sell, Use, Discharge Fireworks	1
SMC 12.02.910	No Tree Permit; Destroy, Injure Street Tree, or Other	1
SMC 12.02.914	Violations	1
SMC 17F.100.050	Disposal of Liquid Waste in Unapproved Place or Manner	1
SMC 17G.050.050	Ex Parte Contact with Adjudicative Officer	2
SMC 18.01.040	Reprisal or Retaliation	1
<hr/>		
Ch. 18.02	Nondiscrimination in Employment Practices	1
<hr/>		
Ch. 18.03	Nondiscrimination in Housing Practices	1

Section 4. That section 04.10.040 of the Spokane Municipal Code is amended to read as follows:

Section 04.10.040 Duties and Functions

The commission has the power and duty to:

- A. adopt rules;
- B. hold regular public meetings and keep a written record of its proceedings which is a public record;
- C. serve as a complaint channel to which human rights grievances of all types can be reported;
- D. maintain statistical data on incidents of human rights violations and make appropriate recommendations for correction;
- E. conduct public hearings to receive citizen concerns about issues relating to human rights;
- F. conduct and arrange for surveys, studies, and polls to factually determine problem areas and perceptions;
- G. provide conflict management and dispute resolution services such as conciliation and mediation;
- H. provide and arrange for victim assistance and support groups;
- I. convene and develop work groups such as sub-committees, ad hoc committees, task forces, and coalitions consisting of concerned organizations, agencies, and individuals to achieve coordinated focus on priority problem areas;
- J. provide and develop community education projects such as conferences, forums, and workshops in collaboration and co-sponsorship with organizations and other agencies;
- K. conduct diversity training programs for public and private employers, citizen groups and agencies;
- L. create a speaker's bureau to address cultural diversity issues;
- M. publish a periodic newsletter on current events and special reports on studies and related findings and recommendations;

- N. develop a mass media program consisting of the appropriate use of press releases, press conferences, public service announcements, and production;
- O. make recommendations for public policy relating to human rights;
- P. issue quarterly reports to the City Council concerning the number of complaints received by the City, the number and type of complaints referred to other entities by the name of the entity, the number of complaints dismissed by the City without either investigation or referral, the number of complaints referred by the City to mediation and the number and type of results of those mediations, the number of complaints referred to the City Prosecutor and the resulting outcomes, and any other actions which the City Council determines to be helpful, provided that in no event will such reports contain personally-identifying information; and
- Q. issue an annual report to the mayor and city council on the health of human rights along with achievements for the past year and goals for the coming year.

Section 5. That section 04.10.050 of the Spokane Municipal Code is amended to read as follows:

Section 04.10.050 ((Investigations))Complaint evaluation process

~~((A complainant filing a complaint involving a named individual or entity resulting from a specific incident who desires an investigation for))~~Complaints of alleged human rights violations received by the commission shall be ((directed to the Washington State human rights commissioner or other appropriate agencies))evaluated according to the process set forth in SMC 18.01.050.

PASSED by the City Council on March 27, 2017.

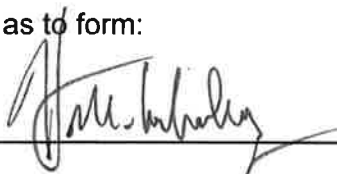


 Council President

Attest:



Approved as to form:



Mayor

Date

May 13, 2017

Effective Date

Mayoral Decision to Return Unsigned
Returned after Mayoral Signature Deadline

Returned: *April 21, 2017*



Appendix D



Spokane Municipal Code

[Home](#)[Title 02](#)[Chapter 02.02](#)[Section 02.02.030](#)

Title 02 Council and Legislation

Chapter 02.02 Initiative and Referendum

Section 02.02.030 Filing of Initiative Measure

- A. In order to facilitate the processing of a proposed initiative measure, a petitioner shall file the proposed measure with the city clerk.
- B. The proposed measure must contain the street address of the petitioner and telephone number of the petitioner or petitioner's representative, as well as the name, street address, telephone number, email address, and state or city business registration of any signature-gathering firm commissioned by the petitioner to gather signatures for the measure.
- C. The city clerk must immediately transmit a copy of the proposed measure to the city attorney.
- D. Within two weeks after receiving the measure, the city attorney prepares, after consultation with the petitioner(s), a ballot title and summary of the measure and files them with the city clerk.
 1. The ballot title shall consist of:
 - a. a statement of the subject measure, which must be sufficiently broad to reflect the subject of the measure, sufficiently precise to give notice of the measure's subject matter, and not exceed ten words;
 - b. a concise description of the measure, which must be a true and impartial description of the measure's essential contents; clearly identify the proposition to be voted on; to the extent reasonably possible, not create prejudice either for or against the measure; and not exceed seventy-five words. When practicable, the question posed by the ballot title is written in such way that an affirmative answer to the question and an affirmative vote on the measure would result in a change in the law; and
 - c. a question.
 2. The summary of the measure should be a clear and concise statement not to exceed one hundred fifty words.

3. Neither the ballot title nor the summary of the measure may contain language or graphic elements which are argumentative or are reasonably likely to create prejudice for or against the measure.

- E. In addition to preparing the ballot title and summary of the measure, the city attorney shall review the proposed measure for such matters as form and style. The city attorney shall edit the measure as necessary to correct obvious typographical errors, conform the language to Spokane Municipal Code format and style, or eliminate ambiguity. Any such editorial revisions are made on a separate sheet from the measure as submitted and clearly identified. All editorial revisions shall be provided to the sponsor and the city clerk at the same time the city attorney files the ballot title and summary of the measure with the city clerk.
- F. Upon receipt of the ballot title and summary of the measure from the city attorney, the city clerk assigns an initiative number by which the measure is identified. The city clerk affixes the ballot title and summary to the original of the proposed measure or the measure as revised pursuant to this section, inscribes the identifying number upon it and retains it in the official file.
- G. The city clerk must immediately furnish a copy of the proposed measure with its ballot title and summary to the sponsor, along with the form of the petition sheet.
- H. When the proposed measure, ballot title, summary, petition form, and number by which the measure is identified are all in final form such that they comply with this chapter, the city clerk shall prepare a report to the city council for the next agenda.

Date Passed: Monday, May 9, 2016

Effective Date: Saturday, June 25, 2016

ORD C35380 Section 2

Appendix E



Spokane Municipal Code

 Search[Home](#)[Title 02](#)[Chapter 02.02](#)[Section 02.02.060](#) Highlight Word

Title 02 Council and Legislation

Chapter 02.02 Initiative and Referendum

Section 02.02.060 Form of Initiative Petition

- A. It is the obligation of the sponsor of the measure to print petitions for circulation of the proposed initiative measure. The sponsor is responsible to conform the petition to the requirements of this chapter as to form and content, to determine the number of signatures required, and to print enough petition sheets to accommodate sufficient signatures.
- B. The paper used for the petition sheets must be of sufficient weight and quality to accommodate printing and writing on both sides. Paper size should be between eight and twelve inches wide and between eleven and eighteen inches long. Printing should be no smaller than ten-point face, except that the full text of the measure may be in smaller type if necessary to allow the entire petition to be on a single sheet of paper. For reasons of length of text or other practical necessity, the specifications of this section may be adjusted as the sponsor and city clerk may agree.
- C. The measure must be typed or printed and be in the form of an ordinance, with a title and the entire text of the section(s) proposed to be added, amended or repealed. When the proposed measure would amend existing law, the text shall be in the following format:
1. Language to be deleted is set forth in full and enclosed in double parentheses or brackets and may be lined out by hyphens.
 2. New language to be added is underlined, unless an entire new section or subsection is being added; and
 3. Deletions of existing language precede additions of new language.
- D. The mandatory and exclusive elements of the petition sheet are:
1. a warning to potential signers regarding possible election law violations;
 2. a heading;

- 3. horizontal lines numbered 1- 20 for the entry of data under vertical columns (or boxes);
- 4. the full text of the measure;
- 5. the name and street address of the sponsor (political committee representative or individual legal resident);
- 6. the number of the measure;
- 7. a ballot title and summary of the measure; and
- 8. the signed declaration of the signature gatherer in the form provided in paragraph E below.

E. Every petition sheet must include the printed name and signed declaration of the signature gatherer. All petition signatures on a petition sheet that does not include the declaration statement signed by the signature gatherer shall be disregarded and not included in the tabulation for validation. The signature gatherer declaration shall be printed as follows:

I, (print name legibly), swear or affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct. I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both.

_____ (Signature) _____ (Date)

F. The warning, heading, initiative number, body of the petition containing the ballot title, numbered signature lines, summary of the measure and declaration of the signature gatherer must appear in that order on the front of each petition sheet. The full text of the measure may be located on the front or the back of the petition sheet as the sponsor determines.

G. An initiative petition shall only include language and provisions set forth in Chapter 2.02 SMC and may not be altered after being assigned an initiative number by the city clerk pursuant to SMC 2.02.030. The sponsor may only modify the format of the petition sheet to accommodate the size of the petition sheet and the font of the print consistent with SMC 2.02.060 and may not alter the substance of the text or include additional information. Any petition sheet that includes additional information beyond what was included on the initiative petition sheet submitted to the city clerk pursuant to SMC 2.02.030(D) and (E) and which had been assigned an initiative number shall be disregarded, and the petition signatures on that sheet shall not be included in the tabulation for validation.

H. Each sheet of the petition must be in substantially the following form:

WARNING

Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal

voter, or makes any false statement on this petition may be punished by fine or imprisonment .

INITIATIVE PETITION TO THE SPOKANE CITY COUNCIL

[INITIATIVE NO. _____]

We, the undersigned citizens and legal voters of the City of Spokane, Washington, respectfully direct that this proposed ordinance [known as Initiative No. _____], a full, true and correct copy of which is printed herein, be passed without alteration by the Spokane City Council, or be submitted to the electors of the City of Spokane for their approval or rejection at the next available special or general municipal elections. [If submitted to election the proposed ordinance shall appear as the following proposition:

(ballot title)

Each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the City of Spokane; my residence address is correctly stated; and I have knowingly signed this petition only once.

PETITIONER'S SIGNATURE (in dark ink and as shown on the signer's voter registration)	PRINTED NAME (legibly in dark ink)	ADDRESS WHERE REGISTERED TO VOTE (Street Address, City, State, Zip Code)
1.		
20.		

(Name, street address and phone number of sponsor)

[(summary of measure)]

DECLARATION OF SIGNATURE GATHERER

I, (print name legibly), swear or affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct. I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both.

_____ (Signature) _____ (Date)

(full text of measure)

Date Passed: Monday, May 9, 2016

Effective Date: Saturday, June 25, 2016

ORD C35380 Section 5

OFFICE OF THE SPOKANE CITY ATTORNEY

March 28, 2019 - 11:48 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 96903-5
Appellate Court Case Title: Global Neighborhood, et al v. Respect Washington
Superior Court Case Number: 17-2-01621-1

The following documents have been uploaded:

- 969035_Answer_Reply_20190328114243SC523740_0217.pdf
This File Contains:
Answer/Reply - Answer to Petition for Review
The Original File Name was Answer of the City of Spokane.pdf

A copy of the uploaded files will be sent to:

- cam@cforjustice.org
- dcatt@spokanecounty.org
- dpenta@cforjustice.org
- dstragier@spokanecity.org
- eichstaedt@gonzaga.edu
- marison.zafra@leahyps.com
- scpaappeals@spokanecounty.org
- stephens@sklegal.pro

Comments:

Sender Name: Nathaniel Odle - Email: nodle@spokanecity.org
Address:
808 W SPOKANE FALLS BLVD
SPOKANE, WA, 99201-3333
Phone: 509-625-6288

Note: The Filing Id is 20190328114243SC523740