

A Special Meeting of the Royal Oak City Commission was held on Monday, January 28, 2013, in Room 309 of City Hall, 211 Williams, Royal Oak. The Meeting was called to order by Mayor Ellison at 6:34 p.m. Present were Mayor Ellison, Commissioner DuBuc, Commissioner Fournier, Commissioner Goodwin, Commissioner Poulton and Commissioner Rasor. Also present were City Manager Johnson, City Attorney Gillam, and Deputy City Clerk Osim.

Adjourned to Closed Session

Moved by Commissioner Goodwin  
Seconded by Commissioner Poulton

BE IT RESOLVED that the City Commission hereby adjourns to Closed Session for purpose of Attorney-Client Privileged and Pending Litigation.

#### ROLL CALL VOTE

AYES: Commissioners Rasor, DuBuc, Poulton, Goodwin, Fournier and Mayor Ellison

NAYS: None

ABSENT: Mayor Pro Tem Capello (6:55 p.m.)

MOTION ADOPTED

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A Regular Meeting of the Royal Oak City Commission was held on Monday, January 28, 2013, in the City Hall, 211 Williams, Royal Oak. The Meeting was called to order by Mayor Ellison at 7:48 p.m.

Commissioner Poulton gave the Invocation. Everyone present gave the Pledge of Allegiance.

| ROLL CALL                      | PRESENT   | ABSENT |
|--------------------------------|---|--------|
| Mayor                          | Ellison   |        |
| Mayor Pro Tem<br>Commissioners | Capello<br>DuBuc<br>Fournier<br>Goodwin<br>Poulton<br>Rasor |        |

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#### ANNOUNCEMENTS

Mayor Ellison read a list of upcoming board/committee meetings and special events.

Mayor Pro Tem Capello announced that the AARP will hold tax consultations at the Mahany/Meininger Senior Center for senior citizens and low income residents on Mondays and Wednesdays.

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#### PUBLIC COMMENT

Ms. Heather Carmona, Director of the Woodward Avenue Action Association, spoke about the proposed Grand Fondo Event to inform the Commission of the development of a more complete plan.

County Commissioner Gary McGillivray, announced that Radon test kits were available from the Health Department, free of charge. Call 248-424-7190. Tax relief is available for those that qualify. Flu shots are still available for \$16.00 through the Health Department at 800-848-5533.

Mr. Ron Wolfe, 333 N. Troy, shared his perspective on the ethics pledge.

Mr. Al Hodge, 1401 E. Lincoln, believes that registered sex offenders should be included in a Human Rights Ordinance.

Mr. John Hughes, owner of the Downtown Ferndale Bike Shop, spoke in favor of the Grand Fondo event. On June 30<sup>th</sup> at 8 a.m. they would be riding on Woodward and encouraged others to join them. He hoped Royal Oak would be "on board" next year.

Mr. Tom Regan, 3126 Glenview, expressed disappointment that the Grand Fondo was not accepted in Royal Oak.

Mr. Todd Scott, 2721 Ferncliff, read a letter resigning from the Traffic Committee.

Ms. Chris Hughes, a former Royal Oak resident, was disappointed that Grand Fondo was not happening in Royal Oak. It's a needed event.

Mr. Ken Warnock, 312 Catalpa, supported a Human Rights Ordinance.

Mr. Robert Myers, 1915 Rowland, believed a Human Rights Ordinance should be put to a vote of the people.

Mr. Alex Fike, 1114 E. Third St., read a letter from Senator Jim Townsend to the Commission.

Ms. Pat Wall, 1506 Ottawa, posed questions and concerns regarding a Human Rights Ordinance.

Mr. Frank Huston, 622 Walnut, announced the new date for the Library Board Pre-school/Daycare Open House. It will be February 25<sup>th</sup> at Northwood Elementary. The Board's annual report acknowledged donors that help keep the Library going. On March 14th the annual book sale will begin. He supported a Human Rights Ordinance and didn't believe it needed to be voted on.

Mr. Chris Davis, 2420 Parmenter, thanked the Commission for taking up the Human Rights Ordinance and hoped it encouraged other communities to do the same.

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#### **APPROVAL OF AGENDA**

Item 20 was removed from the agenda.

Moved by Commissioner Fournier  
Seconded by Commissioner Rasor

BE IT RESOLVED that the City Commission hereby approves the agenda for the January 28, 2013 meeting as amended.

ADOPTED UNANIMOUSLY

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## CONSENT AGENDA

Moved by Commissioner Poulton  
Seconded by Commissioner DuBuc

BE IT RESOLVED that the City Commission hereby approves the consent agenda as follows:

- A. BE IT RESOLVED that the City Commission Minutes of December 17, 2012, January 7 & 12, 2013 are hereby approved.
- B. BE IT RESOLVED that the claims of January 11, 22 and 25, 2013 audited by the Department of Finance are hereby approved.
- C. BE IT RESOLVED that the City Commission approves the renewal of the Letter of Agreement with Counseling Associates for the 2013 calendar year.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are authorized to execute the Letter of Agreement on behalf of the City.

- D. BE IT RESOLVED that the City Commission hereby approves the final plat for the "Alexander Place Subdivision" at 815 East Farnum Avenue (parcel no. 25-15-332-047) as recommended by the Planning Commission.

BE IT FURTHER RESOLVED that the City Clerk is authorized and directed to transcribe a certificate of approval of the City Commission on the plat and deliver all official copies to the Clerk of the Oakland County Plan Board, together with the filing and recording fee and state plat review fee required under MCL 560.241 to be paid by the petitioner.

- E. BE IT RESOLVED that the City Commission hereby approves the Development Agreement permitting the Special Redevelopment project pursuant to the approved special land use permit and all applicable contingencies, and

BE IT FURTHER RESOLVED that the Mayor and City Clerk are authorized to execute said development agreement.

- F. BE IT RESOLVED that the City Commission hereby approves the revised license agreement with Two C's Inc. d/b/a The Rock on 3<sup>rd</sup> permitting an encroachment into the public parking lot abutting 112-114 E. Third Street.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are authorized to execute the license agreement on behalf of the City.

- G. BE IT RESOLVED, that the City Commission approves the proposed Release between the City and David Kassin.

- H. BE IT RESOLVED that the City Commission hereby approves the additional concrete pavement repair work on Girard as shown on Table 1 be added to Hardrock Concrete, Inc. "2012 Concrete Pavement Replacement & Prepaid Sidewalk Improvements" Contract SW-1201, for \$11,700.00, The \$11,700.00 cost for the repair work will be added to the purchase order for this project for a new total contract amount of \$ \$209,186.50.

ADOPTED UNANIMOUSLY

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**ANNOUNCEMENTS**

Moved by Commissioner Rasor  
Seconded by Commissioner Fournier

BE IT RESOLVED, the practice of reading “the announcements” at City Commission meetings shall be terminated effective immediately.

AYES: Commissioners DuBuc, Fournier, Poulton, Rasor, Mayor Pro Tem Capello and Mayor Ellison

NAYS: Commissioner Goodwin

MOTION ADOPTED

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**ROOTS FOUNDATION ORDINANCE AMENDMENT, SECOND READING**

Commissioner Rasor suggested changing the membership to include one Commission representative, three At-large members and one Commission alternate for a total of 11 members.

Moved by Commissioner Rasor  
Seconded by Commissioner Fournier

BE IT RESOLVED, that the City Commission hereby adopts the 2013 Royal Oak Opportunity To Serve Foundation Ordinance (Exhibit A) on Second Reading as amended.

AYES: Commissioners DuBuc, Fournier, Rasor and Mayor Ellison

NAYS: Commissioners Poulton, Goodwin and Mayor Pro Tem Capello

MOTION ADOPTED

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**LIQUOR ORDINANCE AMENDMENT, FIRST READING  
BISTRO LICENSE**

Commissioner Fournier suggested amending Subsection E(2)(f) to eliminate the reference to a closing time.

Moved by Commissioner Rasor  
Seconded by Commissioner Fournier

BE IT RESOLVED, that the 2013 Bistro Amendments (Exhibit B) are approved on First Reading as modified.

AYES: Commissioners DuBuc, Fournier, Poulton, Rasor, Mayor Pro Tem Capello and Mayor Ellison

NAYS: Commissioner Goodwin

MOTION ADOPTED

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## **HUMAN RIGHTS ORDINANCE, FIRST READING**

Moved by Commissioner Rasor  
Seconded by Commissioner DuBuc

BE IT RESOLVED, that the City Commission approves the 2013 Human Rights Ordinance (Exhibit C) on First Reading.

Commissioner Rasor requested information on how other cities accomplish encouraging vendors to practice non-discrimination in hiring and whether enforcement by a Human Rights Commission or the Police would be better.

FRIENDLY AMENDMENT TO BRING THE ORDINANCE BACK FOR SECOND READING AT THE MARCH 4, 2013 MEETING

MOTION NOW READS:

BE IT RESOLVED, that the City Commission approves the 2013 Human Rights Ordinance (Exhibit C) on First Reading; and

BE IT FURTHER RESOLVED that the 2013 Human Rights Ordinance be brought back for Second Reading on March 4, 2013.

AYES: Commissioners DuBuc, Fournier, Goodwin, Rasor, Mayor Pro Tem Capello and Mayor Ellison

NAYS: Commissioner Poulton

MOTION ADOPTED

Mayor Ellison left the Table at 9:46 p.m. Mayor Pro Tem Capello ran the meeting in his absence.

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## **2013 SIDEWALK IMPROVEMENT PROGRAM EXEMPTIONS**

Moved by Commissioner Rasor  
Seconded by Commissioner Fournier

BE IT RESOLVED, the following properties shall be exempted from installing new sidewalk under the 2013 sidewalk improvement program:

522 N. Connecticut Ave (2515478001) is exempt from installing new sidewalk on E Farnum Ave;  
510 N. Campbell Rd. (2514351001) is exempt from installing new sidewalk on E Farnum Ave;  
1719 Roszel St. (2514351013) is exempt from installing new sidewalk on E Farnum Ave;  
1725 Roszel St. (2514351014) is exempt from installing new sidewalk on E Farnum Ave;  
1801 Roszel St. (2514351015) is exempt from installing new sidewalk on E Farnum Ave;  
1805 Roszel St. (2514351016) is exempt from installing new sidewalk on E Farnum Ave;  
1807 Roszel St. (2514351067) is exempt from installing new sidewalk on E Farnum Ave;  
1811 Roszel St. (2514351068) is exempt from installing new sidewalk on E Farnum Ave;  
1815 Roszel St. (2514351018) is exempt from installing new sidewalk on E Farnum Ave;  
1825 Roszel St. (2514351019) is exempt from installing new sidewalk on E Farnum Ave;  
1829 Roszel St. (2514351020) is exempt from installing new sidewalk on E Farnum Ave;  
709 S. Blair Ave. (2522280013) is exempt from installing new sidewalk on E Seventh St;  
715 S. Blair Ave. (2522281001) is exempt from installing new sidewalk on E Seventh St;

710 S. Vermont Ave. (2522280026) is exempt from installing new sidewalk on E Seventh St;  
720 S. Vermont Ave. (2522281006) is exempt from installing new sidewalk on E Seventh St;

Mayor Ellison returned to the Table at 9:49 p.m.

ADOPTED UNANIMOUSLY

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**SET DATE FOR PUBLIC HEARING OF NECESSITY  
2013 SIDEWALK IMPROVEMENT PROGRAM TARGET AREA**

Commissioner Goodwin left the Table at 9:50 p.m.

Moved by Mayor Pro Tem Capello  
Seconded by Commissioner Rasor

**BE IT RESOLVED, that** the City Commission sets the date of February 18, 2013 for the Public Hearing of Necessity for the Special Assessment replacement of deficient concrete sidewalks and installation of new sidewalks within the 2013 Sidewalk Improvement Program target area bounded by North Main Street, East Farnum Avenue, Stephenson Highway, I-696, Longfellow, South Alexander, and East 11 Mile Road.

AYES: Commissioners DuBuc, Fournier, Poulton, Rasor, Mayor Pro Tem Capello and Mayor Ellison

NAYS: None

ABSENT: Commissioner Goodwin

MOTION ADOPTED

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**RECREATION AND SENIOR CENTER PROGRAMS  
ONLINE REGISTRATION UPDATE**

Commissioner Poulton left the Table at 9:53 p.m.

Commissioner Goodwin returned to the Table at 9:53 p.m.

City Manager Johnson updated the Commission regarding the progress of the system for online registration for Recreation and Senior Center programs.

Commissioner Poulton returned to the Table at 9:56 p.m.

Commissioner Rasor left the Table at 9:57 p.m.

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**BRAND DEVELOPMENT SERVICES RECOMMENDATION**

Commissioner Rasor returned to the Table at 10:07 p.m.

Moved by Commissioner Rasor  
Seconded by Commissioner Poulton

BE IT RESOLVED that the discussion of Brand Development Services be Tabled until the February 4, 2013 City Commission meeting.

ADOPTED UNANIMOUSLY

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### **ONLINE SURVEY REPORT**

Mr. Stewart Meek presented a report on the online survey.

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### **FISCAL YEAR 2013-14 STRATEGIC PLAN**

Moved by Commissioner Poulton  
Seconded by Commissioner DuBuc

BE IT RESOLVED, that the Royal Oak City Commission hereby incorporates and adopts the Goals and Objectives as the City of Royal Oak's FY 2013-2014 Strategic Plan.

AYES: Commissioners DuBuc, Fournier, Goodwin, Poulton and Mayor Ellison

NAYS: Commissioner Rasor and Mayor Pro Tem Capello

MOTION ADOPTED

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### **MAJOR FUND AND ABE ENTERPRISE FUND UPDATES**

Finance Director Rudd presented the updates.

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### **POLICY TO LIMIT THE NUMBER OF COMMITTEES/COMMISSIONS/BOARDS ON WHICH AN INDIVIDUAL CAN SERVE AT ONE TIME**

Moved by Commissioner Rasor  
Seconded by Commissioner

BE IT RESOLVED that the City Commission hereby directs staff to develop a method to publicize Board and Committee vacancies.

MOTION FAILED FOR LACK OF SUPPORT

The Commission requested staff recommend a process to publicize vacancies.

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### **REPEAL OF COMMISSION OVERSIGHT PROVISION OF THE DOWNTOWN DEVELOPMENT AUTHORITY ORDINANCE**

Moved by Mayor Pro Tem Capello  
Seconded by Commissioner Rasor

BE IT RESOLVED that the City Commission directs the City Attorney to prepare an amendment to repeal the Oversight Provision of the Downtown Development Authority Ordinance on First Reading.

ADOPTED UNANIMOUSLY

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Upon Motion of Mayor Pro Tem Capello, Seconded by Commissioner Rasor, and adopted unanimously, the Regular Meeting was adjourned at 11:09 p.m.

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Melanie Halas, City Clerk

The foregoing Minutes of the Regular Meeting held on January 28, 2013, having been officially approved by the City Commission on Monday, February 18, 2013, are hereby signed this eighteenth day of February 2013.

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James B. Ellison, Mayor



Exhibit A

**ORDINANCE 2013 - 01**

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ROYAL OAK AT CHAPTER 26, "CHARITABLE CONTRIBUTIONS FOR PUBLIC PURPOSES", TO REDUCE THE NUMBER OF MEMBERS OF THE ROOTS FOUNDATION FROM THIRTEEN TO ELEVEN, AND TO ALLOW FOR THE APPOINTMENT OF ALTERNATES TO THE ROOTS FOUNDATION TO SERVE IN THE ABSENCE OF A REGULAR MEMBER**

THE CITY OF ROYAL OAK ORDAINS:

Section 1. SHORT TITLE. This ordinance shall be known and may be cited as the "2013 Royal Oak Opportunity to Serve Foundation Ordinance".

Section 2. STATEMENT OF PURPOSE. This is an ordinance to amend the Code of the City of Royal Oak at Chapter 26, "Charitable Contributions for Public Purposes", to reduce the number of members of the Roots Foundation from thirteen to eleven, and to allow for the appointment of alternates to the Roots Foundation to serve in the absence of a regular member.

Section 3. AMENDMENT TO SECTION 26-3. Chapter 26, "Charitable Contributions for Public Purposes", is hereby amended at Section 26-3, "Committee created; appointments", which shall now read as follows:

**"Section 26-3. Committee created; appointments.**

- A.** The Committee shall consist of eleven (11) members as selected by the City Commission. One (1) shall be a member of the City Commission (or his/her alternate, as designated by the City Commission, should he/she not be available), seven (7) shall be members of those organizations that have historically been involved with public purpose projects in the City of Royal Oak and who have participated in the drafting of this Chapter (hereinafter known as "Member Groups"), and three (3) shall be members of the community at large as governed by Chapter 12, Appointments to Advisory Boards, Commissions and Committees. All members shall have voting rights. The City of Royal Oak Director of Finance, or his or her designee, shall serve as a non-voting ad hoc member of the Committee.
- B.** The City Commission shall appoint all members of the Committee, who shall be volunteers and receive no monetary compensation.
- C.** From among the members of their organizations, the Member Groups may propose nominees for service on the Committee to the Royal Oak City Commission. In addition, the Member Groups may propose alternate representatives should the member representative not be available. The City Commission may accept or reject those nominees and may remove any Committee member, by resolution, at any time at the sole discretion of the Commission."

Section 4. AMENDMENT TO SECTION 26-4. Chapter 26, "Charitable Contributions for Public Purposes", is hereby amended at Section 26-4, "Terms of members", which shall now read as follows:

**"Section 26-4. Terms of members.**

- A. Committee members serving in the position reserved for residents of the City of Royal Oak shall serve in staggered, three-year terms.
- B. Starting in 2002, one position reserved for members of those organizations that have historically been involved with public purpose projects in the City of Royal Oak and who have participated in the drafting of this Chapter shall serve an initial one-year term, two for two-year terms and two positions for three-year terms. Thereafter, these positions shall serve three-year terms. Starting in 2002, the two positions reserved for at-large members of the Committee shall initially serve two- and three-year terms respectively and thereafter shall serve three-year terms.
- C. The City Commission shall appoint one City Commission Committee member, and an alternate, in accordance with its usual practice.”

Section 5. SEVERABILITY. If any Section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 6. SAVINGS. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 7. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 8. EFFECTIVE DATE. This ordinance shall take effect ten (10) days after the final passage thereof.

Exhibit B

**ORDINANCE 2013 - 02**

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ROYAL OAK AT CHAPTER 430, "LIQUOR", SECTION 430-5, "REVIEW PROCEDURES", SUBSECTION (E), "BISTRO CONCEPT", TO EXTEND THE HOURS THAT A BISTRO MAY OFFER FOOD SERVICE AND TO REPEAL THE LIMIT ON THE NUMBER OF LICENSES THAT CAN APPROVED UNDER THE BISTRO CONCEPT ON AN ANNUAL BASIS**

THE CITY OF ROYAL OAK ORDAINS:

Section 1. SHORT TITLE. This ordinance shall be known and may be cited as the "2013 Bistro Amendments".

Section 2. STATEMENT OF PURPOSE. This is an ordinance to amend the Code of the City of Royal Oak at Chapter 430, "Liquor", Section 430-5, "Review Procedures", Subsection E, "Bistro concept", to extend the hours that a bistro may offer food service and to repeal the limit on the number of licenses that can be approved under the bistro concept on an annual basis.

Section 3. AMENDMENT TO SECTION 430-5(E). Chapter 430, "Liquor", is hereby amended at Section 430-5, "Review Procedures", Subsection E, "Bistro concept", which shall now read as follows:

**"E. Bistro concept.**

- (1) An applicant for a liquor license may propose to utilize the license for purposes of the operation of a bistro. Food service shall be the primary purpose of a bistro. Unique and diverse venues with specialized menus that attract new patronage are encouraged.
- (2) For purposes of this Chapter, a "bistro" is defined as a restaurant with a full-service kitchen with interior seating that meets all of the following criteria:
  - (a) The liquor license must be a redevelopment district license, as defined in the Michigan Liquor Control Code, MCL 436.1101 et seq., as amended.
  - (b) Interior seating (including bar seating) can be no greater than 75 people.
  - (c) Seasonal sidewalk café seating of up to 24 people may be allowed, provided that the City determines that there is sufficient space on an adjacent public sidewalk. Rooftop seating shall not be allowed.
  - (d) Bar seating shall be limited to eight seats.
  - (e) The license shall not include a dance permit.
  - (f) The establishment shall close no later than 12:00 midnight any day of the week. With the prior approval of the City Commission, an establishment may remain open to offer food service. If an establishment is allowed to remain open to offer food service, the sale of alcohol shall stop at 12:00 midnight.
  - (g) No gaming devices or amusements (including, but not limited to, pool table, dartboards, video games and pinball) shall be permitted.
  - (h) Alcohol shall only be served to seated patrons.
  - (i) The interior seating area shall be no greater than 2,250 square feet.
  - (j) No direct connection additional bar permit shall be allowed.
  - (k) The licensee must otherwise comply with all requirements of the City Code.

(3) Prior to operating a bistro, a licensee shall enter into a written agreement with the City setting forth all of the operating requirements for a bistro. Failure to comply with the terms and conditions of the agreement shall be grounds for the City to recommend revocation of the license by the Michigan Liquor Control Commission.”

Section 4. REPEAL OF SUBSECTION 430-5(E)(4). Subsection 430-5(E)(4) is expressly repealed and reserved for future use.

Section 5. SEVERABILITY. If any Section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 6. SAVINGS. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 7. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 8. EFFECTIVE DATE. This ordinance shall take effect ten (10) days after the final passage thereof.

Exhibit C

**ORDINANCE 2013 - 03**

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ROYAL OAK TO PROHIBIT DISCRIMINATION BASED UPON ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, HEIGHT, WEIGHT, CONDITION OF PREGNANCY, MARITAL STATUS, PHYSICAL OR MENTAL LIMITATION, SOURCE OF INCOME, FAMILY RESPONSIBILITIES, SEXUAL ORIENTATION, GENDER IDENTITY, OR HIV STATUS, AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF**

THE CITY OF ROYAL OAK ORDAINS:

Section 1. SHORT TITLE. This ordinance shall be known and may be cited as the "2013 Human Rights Ordinance".

Section 2. STATEMENT OF PURPOSE. This is an ordinance to amend the Code of the City of Royal Oak to prohibit discrimination based upon actual or perceived race, color, religion, national origin, sex, age, height, weight, condition of pregnancy, marital status, physical or mental limitation, source of income, family responsibilities, sexual orientation, gender identity, or HIV status, and to provide penalties for the violation thereof.

Section 3. AMENDMENT TO CHAPTER \_\_. The Code of the City of Royal Oak is hereby amended at Chapter \_\_, which shall now read as follows:

**"CHAPTER \_\_. Human Rights**

Section 1. Intent.

It is the intent of the City that no person be denied equal protection of the laws; nor shall any person be denied the enjoyment of his or her civil or political rights or be discriminated against because of actual or perceived race, color, religion, national origin, sex, age, height, weight, condition of pregnancy, marital status, physical or mental limitation, source of income, family responsibilities, sexual orientation, gender identity or HIV status.

Section 2. Definitions.

As used in this Chapter, the following words and phrases shall have the following meaning:

- (1) Age -- chronological age.
- (2) Discriminate -- to make a decision, offer to make a decision, or refrain from making a decision, based in whole or in part on the actual or perceived race, color, religion, national origin, sex, age, height, weight, condition of pregnancy, marital status, physical or mental limitation, source of income, family responsibilities, sexual orientation, gender identity, or HIV status of another person, that person's relatives, or that person's associates. Discrimination based on sex includes sexual harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when (a) submission to such conduct or communication is, either explicitly or implicitly, made a term or condition of obtaining employment, public accommodations, or housing, (b) submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or

housing, and/or (c) such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, or housing environment. Discrimination based upon actual or perceived physical or mental limitation includes discrimination because of the use of adaptive devices or aids by an individual.

- (3) Family responsibilities -- the state of being or the potential to become a contributor to the support of a person or persons in a family relationship.
- (4) Gender identity -- a person's actual or perceived gender, including a person's gender identity, self-image, appearance, expression, or behavior, whether or not that gender identity, self-image, appearance, expression, or behavior is different from that traditionally associated with the person's sex at birth as being either female or male.
- (5) HIV status -- the physical condition of a person who has, or has been diagnosed as having been infected with, the human immunodeficiency virus, whether or not that person has or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome related complex.
- (6) Housing facility -- any dwelling unit or facility used for a person to regularly sleep and keep personal belongings including, but not limited to, a house, apartment, rooming house, housing cooperative, hotel, motel, tourist home, retirement home or nursing home.
- (7) Marital status -- the state of being married, unmarried, divorced, or widowed.
- (8) Mental limitation -- a limitation of mental capabilities unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion; a limitation of mental capabilities unrelated to one's ability to acquire, rent and maintain property; or a limitation of mental capabilities unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation. "Mental limitation" includes, but is not limited to, developmental and psychological disabilities. "Mental limitation" does not include any condition caused by the current use of alcohol or the current illegal use of a controlled substance.
- (9) Perceived -- the perception of the person who acts, and not the perception of the person for or against whom the action is taken.
- (10) Physical limitation -- a limitation or physical capabilities unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion; a limitation of physical capabilities unrelated to one's ability to acquire, rent and maintain property; or a limitation of mental capabilities unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation. "Physical limitation" includes, but is not limited to, blindness or partial sightedness, deafness or hearing impairment, muteness, partial or total absence of physical member, speech impairment and motor impairment. "Physical limitation" does not include any condition caused by the current use of alcohol or the current illegal use of a controlled substance.
- (11) Place of public accommodation -- an educational, governmental, health, day care, entertainment, cultural, recreational, refreshment, transportation, financial institution, accommodation, business or other facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available to the public, or which receives financial support through the solicitation of the general public or through governmental subsidy of any kind.
- (12) Sexual orientation -- male or female homosexuality, heterosexuality, or bisexuality, by orientation or practice.
- (13) Source of income -- any legal source from which a person obtains money.

Section 3. Discriminatory housing practices.

- (1) No person shall discriminate in leasing, selling or otherwise making available any housing facilities.
- (2) No person shall discriminate in the terms, conditions, maintenance, or repair in providing any housing facility.
- (3) No person shall refuse to lend money for the purchase or repair of any real property or to insure any real property solely because of the location in the City of such real property.
- (4) No person shall promote real estate transactions by representing that changes are occurring or will occur in an area with respect to race, religion or national origin.
- (5) No person shall place a sign or other display on any real property which indicates that the property is for sale or has been sold when it is not for sale or has not recently been sold.

#### Section 4. Discriminatory public accommodation practices.

No person shall discriminate in making available full and equal access to all goods, services, activities, privileges and accommodations of any place of public accommodation. No person shall prohibit a breastfeeding mother from or segregate a breastfeeding mother within any public accommodation where she and the child would otherwise be authorized to be.

#### Section 5. Discriminatory employment practices.

- (1) No person shall discriminate in the employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any person.
- (2) No person shall discriminate in limiting membership, conditions of membership or termination of membership in any labor union or apprenticeship program.

#### Section 6. Other prohibited practices.

- (1) No person shall adopt, enforce or employ any policy or requirement, publish, post or broadcast any advertisement, sign or notice which discriminates or indicates discrimination in providing housing, employment or public accommodations.
- (2) No person shall discriminate in the publication or distribution of advertising material, information or solicitation regarding housing, employment or public accommodations.
- (3) No agent, broker, labor union, employment agency or any other intermediary shall discriminate in making referrals, listings or providing information with regard to housing, employment or public accommodations.
- (4) No person shall coerce, threaten or retaliate against a person for making a complaint or assisting in the investigation regarding a violation or alleged violation of this chapter, nor require, request, conspire with, assist or coerce another person to retaliate against a person for making a complaint or assisting in an investigation.
- (5) No person shall conspire with, assist, coerce or request another person to discriminate in any manner prohibited by this chapter.

#### Section 7. Information and investigation.

No person shall provide false information to any police officer investigating an alleged violation of this Chapter.

Section 8. Conciliation agreements.

In cases involving alleged violations of this Chapter, the City may enter into agreements whereby persons agree to methods of terminating discrimination or to reverse the effects of past discrimination. A violation of such an agreement shall be a violation of this Chapter. The City Attorney may commence a civil action to enforce a conciliation agreement.

Section 9. Discriminatory effects.

No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to actual or perceived race, color, religion, national origin, sex, age, height, weight, condition of pregnancy, source of income, family responsibilities, sexual orientation, marital status, physical or mental limitation, gender identity or HIV status for a person to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a necessity does not arise due to a mere inconvenience or because of suspected or actual objection to such a person by neighbors, customers, or other persons.

Section 10. Exceptions.

Notwithstanding anything contained in this Chapter, the following practices shall not be violations of this Chapter:

- (1) For a religious organization or institution to restrict any of its facilities of housing or accommodations which are operated as a direct part of religious activities to persons of the denomination involved or to restrict employment opportunities for officers, religious instructors and clergy to persons of that denomination.
- (2) For the owner of an owner-occupied 1-family or 2-family dwelling, or a housing facility or public accommodation facility, respectively, devoted entirely to the housing and accommodation of individuals of 1 sex, to restrict occupancy and use on the basis of sex.
- (3) To limit occupancy in a housing project or to provide public accommodations or employment privileges or assistance to persons of low income, over 55 years of age, or who are handicapped.
- (4) To engage in a bona fide effort to establish an affirmative action program to improve opportunities in employment for minorities and women.
- (5) To discriminate based on a person's age when such discrimination is required by state, federal or local law.
- (6) To refuse to enter a contract with an unemancipated minor.
- (7) To refuse to admit to a place of public accommodation serving alcoholic beverages a person under the legal age for purchasing alcoholic beverages.
- (8) To refuse to admit persons under eighteen (18) years of age to a business providing entertainment or selling literature which the operator of said business deems unsuitable for minors.
- (9) For an educational institution to limit the use of its facilities to those affiliated with such institution.
- (10) To provide discounts on products or service to students, minors and senior citizens.
- (11) To discriminate in any arrangement for the sharing of a dwelling unit.
- (12) To restrict use of lavatories and locker room facilities on the basis of sex.
- (13) For a governmental institution to restrict any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to federal and state laws and regulations.



- (14) To restrict participation in an instructional program, athletic event or on an athletic team on the basis of age or sex.

Section 11. Penalties.

- (1) A violation of any provision of this Chapter is a civil infraction, punishable by a fine of not more than \$500.00, plus the costs of investigation and prosecution. Upon a finding or an admission of responsibility, the Court may issue and enforce any judgment, writ, or order necessary to enforce this Chapter.
- (2) Each day upon which a violation occurs shall constitute a separate violation.
- (3) Nothing contained in this Chapter shall be construed to limit in any way the remedies, legal or equitable, which are available to the City or any other person for the prevention or correction of discrimination. Private actions and remedies shall be in addition to any actions for a violation which the City may take.”

Section 4. SEVERABILITY. If any Section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 5. SAVINGS. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 6. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 7. EFFECTIVE DATE. This ordinance shall take effect ten (10) days after the final passage thereof.

Exhibit D

**ORDINANCE NO. 2013 - 04**

**AN ORDINANCE TO AMEND THE ROYAL OAK CITY CODE AT CHAPTER 52, "DOWNTOWN DEVELOPMENT", ARTICLE I, "DOWNTOWN DEVELOPMENT AUTHORITY", SECTION 52-7, "POWERS OF AUTHORITY", TO PROVIDE THAT THE DOWNTOWN DEVELOPMENT AUTHORITY'S EXERCISE OF ITS POWERS IS NOT SUBJECT TO THE APPROVAL OF THE CITY COMMISSION**

THE CITY OF ROYAL OAK ORDAINS:

SECTION 1. SHORT TITLE. This Ordinance shall be known as and may be cited as the "2013 Amendment to the Downtown Development Authority Ordinance."

SECTION 2. STATEMENT OF PURPOSE. This is an ordinance to amend the City Code at Chapter 52, "Downtown Development", Article I, "Downtown Development Authority", Section 52-7, "Powers of Authority", to provide that the Downtown Development Authority's exercise of its powers is not subject to the approval of the City Commission.

SECTION 3. AMENDMENT AT SECTION 52-7. The Royal Oak City Code, Chapter 52, "Downtown Development", Article I, "Downtown Development Authority", is hereby amended at Section 52-7, "Powers of Authority", which shall now read as follows:

**"Section 52-7. Powers of Authority.**

The Downtown Development Authority may:

- A. Prepare an analysis of economic changes taking place in the downtown district.
- B. Study and analyze the impact of metropolitan growth upon the downtown district.
- C. Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the board, assists in the economic growth of the downtown district.
- D. Plan, propose, and implement an improvement to a public facility within the development area to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.
- E. Develop long-range plans, in cooperation with the City Commission and/or the Planning Commission, designed to halt the deterioration of property values in the downtown district and to promote the economic growth of the downtown district, and take such steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.
- F. Implement any plan of development in the downtown district necessary to achieve the purposes of Act No. 197 of the Public Acts of Michigan of 1975 (MCL 125.1651 et seq., as amended) and this Chapter, in accordance with the powers of the authority as granted by the state act.
- G. Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.
- H. Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper, or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in property, which the authority determines is reasonably necessary to achieve the purposes of Act No. 197, and to grant or acquire licenses, easements and options with respect to that property.

- I. Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances to that property, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination of them.
- J. Fix, charge, and collect fees, rents, and charges for the use of any building or property under its control or any part thereof, or facility therein, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.
- K. Lease any building or property under its control, or any part of a building or property under its control.
- L. Accept grants and donations of property, labor, or other things of value from a public or private source.
- M. Acquire and construct public facilities.
- N. Create, operate, and fund marketing initiatives that benefit only retail and general marketing of the downtown district.
- O. Contract for broadband service and wireless technology service in the downtown district.
- P. Operate and perform all duties and exercise all responsibilities described in this section in a qualified township, as defined in Act 197, if the qualified township has entered into an agreement with the City under Act 197.
- Q. Create, operate, and fund a loan program to fund improvements for existing buildings located in the downtown district to make them marketable for sale or lease. The board may make loans with interest at a below market rate, as determined by the board.
- R. Create, operate, and fund retail business incubators in the downtown district.”

SECTION 4. SEVERABILITY. If any Section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. SAVINGS. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

SECTION 6. REPEALER. Ordinance No. 2010-05, the 2010 Amendment to the Downtown Development Authority Ordinance”, is expressly repealed. All other ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 7. EFFECTIVE DATE. This ordinance shall take effect ten (10) days after the final passage thereof.