

ORDINANCE NUMBER: _____

AMENDING CHAPTERS 2, 12, and 22

AN ORDINANCE AMENDING ARTICLE V OF CHAPTER 2 OF THE CHARLOTTE CITY CODE ENTITLED “ADMINISTRATION”, ARTICLES II, III AND IV OF CHAPTER 12 ENTITLED “HUMAN RELATIONS”, AND ARTICLE II OF CHAPTER 22 ENTITLED “VEHICLES FOR HIRE”

BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Article V of Chapter 2 of the Charlotte City Code is amended as follows:

“Sec. 2-151. - Policy statement.

It is the policy of the city not to enter into a contract with any business firm that has discriminated in the solicitation, selection, hiring or treatment of vendors, suppliers, subcontractors or commercial customers on the basis of a Protected Class ~~race, gender, religion, national origin, ethnicity, age, or disability~~, or on the basis of any otherwise unlawful use of characteristics regarding such vendor's, supplier's, or commercial customer's employees or owners in connection with a city contract or solicitation; provided that nothing in this commercial non-discrimination policy shall prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that has occurred or is occurring in the marketplace.

Sec. 2-152. - Purpose and intent.

It is the intent of the city to avoid becoming a passive participant in private sector commercial discrimination by refusing to procure goods and services from business firms that discriminate in the solicitation, selection, hiring, or treatment of vendors, suppliers, subcontractors, or commercial customers on the basis of a Protected Class ~~race, gender, religion, national origin, ethnicity, age, or disability~~ in connection with city contracts or solicitations by providing a procedure for receiving, investigating, and resolving complaints of discrimination involving city contracts or solicitations.

Sec. 2-153. - Definitions.

For purposes of this article, the following terms have the meanings indicated unless the context clearly requires a different meaning.

...

Discrimination means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or treatment of a vendor, supplier, subcontractor or commercial customer on the basis of a Protected Class ~~race, gender, religion, national origin, ethnicity, age, or disability~~, or on the basis of any otherwise unlawful use of characteristics regarding such vendor's, supplier's, or commercial customer's employees or owners in connection with a city contract or solicitation; provided that nothing in this definition or article shall prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that has occurred or is occurring in the marketplace.

...

Gender identity and gender expression means having or being perceived as having gender-related identity, expression, appearance, or behavior, whether or not that identity, expression, appearance, or behavior is different from that traditionally associated with the sex assigned to that individual at birth.

Natural hairstyle means any hair texture, color, type or style of wear historically associated with race or national origin.

Protected Class means a person's race, color, gender, religion, national origin, ethnicity, age, familial status, sex (including sexual orientation, gender identity and gender expression), veteran status, pregnancy, natural hairstyle or disability.

Sexual orientation means a person's actual or perceived emotional, romantic, or sexual attraction to other people which includes, but is not limited to, heterosexuality, homosexuality or bisexuality..

...

Sec. 2-166. - Mandatory nondiscrimination contract clause.

Every contract and subcontract shall contain or incorporate a nondiscrimination clause that reads substantially as follows:

As a condition of entering into this agreement, the company represents and warrants that it will fully comply with the city's commercial non-discrimination policy, as described in section 2, article V of the City Code, and consents to be bound by the award of any arbitration conducted thereunder. As part of such compliance, the company shall not discriminate on the basis of a Protected Class race, gender, religion, national origin, ethnicity, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, suppliers, or commercial customers in connection with a city contract or contract solicitation process, nor shall the company retaliate against any person or entity for reporting instances of such discrimination. The company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities on city contracts, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace. The company understands and agrees that a violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of the company from participating in city contracts or other sanctions.

Sec. 2-167. - Contractor bid requirements.

All requests for bids or proposals issued for city contracts shall include a certification to be completed by the bidder or proposer in substantially the following form:

The undersigned bidder or proposer hereby certifies and agrees that the following information is correct:

1. In preparing its enclosed bid or proposal, the bidder or proposer has considered all bids and proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in discrimination as defined in section 2.
2. For purposes of this section, discrimination means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of a Protected Class ~~race, ethnicity, gender, age, religion, national origin, disability~~ or any otherwise unlawful form of discrimination. Without limiting the foregoing, discrimination also includes retaliating against any person or other entity for reporting any incident of discrimination.

...

Sec. 2-168. - Contract disclosure requirements.

Every contract that the city enters into shall include or incorporate a clause that reads substantially as follows:

...

Section 2. Article II of Chapter 12 of the Charlotte City Code is amended as follows:

“Sec. 12-27. - Powers.

Within the limitations provided by law, the community relations committee created under this article has the power to:

...

- (9) Render at least annually a written report to the mayor and to the city council and to the chairman and the board of county commissioners. The report may contain recommendations of the committee for legislation or other actions to eliminate or reduce discrimination with respect to Protected Class(es) ~~race, color, religion, sex, or national origin.~~

Sec. 12-29. - Powers of conciliation division.

Within the limitations provided by law, the conciliation division of the community relations committee created by this article has the power to:

...

- (3) Approve or disapprove plans to eliminate or reduce discrimination with respect to Protected Class(es) ~~race, color, religion, sex or national origin;~~

...

Sec. 12-30. - Complaint procedure.

...

(c) If the conciliation division finds that there is no reasonable cause to believe the respondent has violated article III or IV of this chapter, the chairperson shall, within a

reasonable time, inform the complaining party, the city attorney, and the respondent of the conciliation division's findings. ~~and shall refer the complaint to the city attorney for any further action the city attorney deems appropriate.~~

...
Sec. 12-31. - Other civil ~~or criminal~~ remedies.

An election to proceed by making a complaint with the conciliation division by a person alleging a violation of article III or IV of this chapter shall not foreclose the right to proceed with any civil ~~or criminal~~ remedies available. Violation of articles III or IV of this chapter shall not be punishable as a crime under N.C.G.S. 14-4 or any other law.

Nothing in articles III or IV of this chapter shall be interpreted or applied so as to create any unique requirement, power, or duty or liability in conflict with any existing federal or state law or either the federal or state constitutions. Other than an assertion that a respondent employer is not a covered employer due to the size of its employee workforce, any and all legal rights, remedies and defenses to a charge of discrimination recognized under applicable federal and state law shall also be applicable to a charge of discrimination under this ordinance. ~~Religious institutions and other activities and practices constituting the exercise of first amendment rights are exempt from the requirements of articles III and IV of this chapter, notwithstanding any other provision of this ordinance.~~ This includes, but is not limited to, applicable legal exemptions for religious organizations.

“Sec. 12-32. - No Private Cause of Action

Violations of articles III or IV of this chapter is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the City of Charlotte, its agencies, departments or any other entities, or any officers, employees, or agents thereof, or against the Charlotte-Mecklenburg Community Relations Committee (as that term is defined in this chapter) or any other person, employer or respondent.”

Section 3. Article III of Chapter 12 of the Charlotte City Code is amended as follows:

“Sec. 12-57. - Definitions.

The following words, terms and phrases, when used in this ~~article~~ chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Gender identity and gender expression means having or being perceived as having gender-related or being perceived as having gender-related identity, expression, appearance, or behavior, whether or not that identity, expression, appearance, or behavior is different from that traditionally associated with the sex assigned to that individual at birth.

...

Natural hairstyle means any hair texture, color, type or style of wear historically associated with race or national origin.

...

Protected Class means a person's race, color, gender, religion, national origin, ethnicity, age, familial status, sex (including sexual orientation or gender identity), veteran status, pregnancy, natural hairstyle or disability.

...

Sexual orientation means a person's actual or perceived emotional, romantic, or sexual attraction to other people which includes, but is not limited to, heterosexuality, homosexuality or bisexuality.

...

"Sec. 12-58. - Prohibited acts.

(a) It shall be unlawful to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of a Protected Class race, color, religion, or national origin.

(b) It shall be unlawful to make, print, circulate, post, mail or otherwise cause to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation will be refused, withheld from, or denied any person because of a Protected Class race, color, religion, or national origin, or that any person's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of a Protected Class race, color, religion, or national origin; provided, however, this section does not apply to a private club or other establishment not, in fact, open to the public.

(c) ~~This section shall not apply to multiple occupancy restrooms, showers, or changing facilities or to a private club or other establishment not, in fact, open to the public.~~

Sec. 12-59. Prohibited sex discrimination.

~~(a) It shall be unlawful to deny a person, because of sex, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, of accommodations of a restaurant, hotel, or motel.~~

~~(b) This section shall not apply to the following:~~

~~(1) Restrooms, shower rooms, bathhouses and similar facilities which are in their nature distinctly private.~~

~~(2) YMCA, YWCA and similar types of dormitory lodging facilities.~~

~~(3) A private club or other establishment not, in fact, open to the public."~~

Section 4 Article IV of Chapter 12 of the Charlotte City Code is amended as follows:

“Sec. 12-83. Prohibited employment discrimination.

(a) It shall be unlawful for any employer with at least one and up to fourteen (14) employees because of the Protected Class of any person, to fail or refuse to hire, discharge or otherwise discriminate against that person with respect to hire, tenure, promotion, transfer, compensation, terms, conditions, position or privileges of employment, or any matter directly or indirectly related to employment.”

Section 5. Article II of Chapter 22 of the Charlotte City Code is amended as follows:

“Sec. 22-158(a)(5). - Conduct.

(a) No for-hire company, for-hire vehicle owner, and/or for-hire driver shall:

(5) Refuse or neglect to transport any person on the basis of a Protected Class as that term is defined in chapter 12 of this ordinance ~~race, color, religion, sex or national origin.”~~

Section 6. Severability Clause

If any provision of this ordinance or its application to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this ordinance, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this ordinance are declared to be severable.

Section 7. This ordinance shall be effective on January 1, 2022.

Approved as to form

City Attorney