

ORDINANCE NO. 17-53

AN ORDINANCE AMENDING OLATHE MUNICIPAL CODE SECTIONS 2.44.010, 2.44.020, 2.44.030, 2.44.040, 2.44.050, 2.44.060, AND 2.44.070 PERTAINING TO THE HUMAN RELATIONS COMMISSION AND REPEALING THE EXISTING SECTIONS; ALSO REPEALING SECTIONS 2.44.011, 2.44.041, 2.44.042, 2.44.051, 2.44.052, 2.44.061, 2.44.062, 2.44.080, 2.44.090, 2.44.091, 2.44.092, 2.44.093, 2.44.094, 2.44.100, 2.44.110, 2.44.120, AND 2.44.130.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Section 2.44.010 of the Olathe Municipal Code is hereby amended to read as follows:

"2.44.010 Declaration of Policy Purpose.

~~This Chapter shall be known as the act against discrimination. It shall be deemed an exercise of the police power of the City for the protection of the public welfare, safety, health and peace of the people of this City. The practice or policy of discrimination against individuals in employment relations, in relation to free and public accommodations, in housing by reason of race, religion, color, sex, disability, national origin or ancestry or in housing by reason of familial status in a matter of concern to the City, since such discrimination threatens not only the rights and privileges of the inhabitants of the City of Olathe but menaces the institutions and foundations of a free democratic state.~~

~~It is hereby declared to be the policy of the City of Olathe to eliminate and prevent discrimination in all employment relations, to eliminate and prevent discrimination, segregation, or separation in all places of public accommodations covered by this Chapter, and to eliminate and prevent discrimination, segregation or separation in housing.~~

~~It is also declared to be the policy of this City to assure equal opportunities and encouragement to every citizen regardless of age, religion, color, sex, disability, national origin or ancestry, in securing and holding, without discrimination, employment in any field of work or labor for which a person is properly qualified, to assure equal opportunities to all persons within this state to full and equal public accommodation, and to assure equal opportunities in housing without distinction on account of race, religion, color, sex, disability, familial status, national origin or ancestry. It is further declared that the opportunity to secure and to hold employment, the opportunity for full and equal public accommodations as covered by this act and the opportunity for full and equal housing are civil rights of every citizen.~~

(A) The Governing Body of the City of Olathe has deemed it to be in the best interest of the city to establish a human relations commission to include members who are broadly representative of the entire community and who are committed to a philosophy of inclusion, intergroup

cooperation, and fair treatment that will effectively help the city in the following ways:

(1) Fairness, respect. Promote and develop an environment of fairness and respect among its residents;

(2) Engagement. Develop ways to measure and assess community relations, particularly those that are sources of intergroup conflict;

(3) Intergroup relations. Involve all segments of the community in understanding and appreciating the benefits of positive intergroup relations;

(4) Resources. Offer a range of programs and services to assist residents and neighborhoods regarding human relations; and

(5) Intergroup conflict. Develop ways of anticipating, preparing for, and relieving community tensions arising from intergroup conflict.

(B) The commission, as an advisory body to the Governing Body, shall not involve itself in activities or functions already assigned by law or decree to other governmental entities, including, but not limited to, the city, the Kansas Human Rights Commission, or the United States Department of Housing and Urban Development."

SECTION TWO: Section 2.44.020 of the Olathe Municipal Code is hereby amended to read as follows:

"2.44.020 Definitions Establishment and Membership.

~~(a) "Affirmative Action Program" means a positive program designed to insure that a good faith, diligent effort will be made to employ applicants and to treat employees during employment equally without regard to their race, color, creed or religion, disability, national origin or sex. Such program shall include, where applicable, but not be limited to, the following:~~

~~Recruitment and recruitment advertising, employment, upgrading promotion, demotion or transfer, layoff or termination, rates of pay or other forms of compensation, other terms or conditions of employment and selection for training, including apprenticeship; and shall include goals, methodology and timetable for implementation of the program. The affirmative action program shall require a showing of demonstrable evidence of progress toward the goal of said program. The words "applicants" and "employees" as used in this Chapter include subcontractors as well as individuals.~~

~~(b) "Age" means an age of eighteen (18) or more years.~~

~~(c) "Aggregate Annual Business" means the amount of business done by the supplier or other contractor with the City during the current calendar year and, if this amount does not exceed Ten Thousand Dollars (\$10,000.00), then by the amount of business done by such supplier or contractor with the City during the next preceding calendar year.~~

~~(d) "Class I Contract" means any contract which the City enters into or renews with a supplier or contractor after the effective date of the ordinance codified in this Chapter in an amount equal to or more than Ten Thousand Dollars (\$10,000.00), or to any contract with a supplier or contractor who does an aggregate annual business with the City equal to or in excess of Ten Thousand Dollars (\$10,000.00).~~

~~(e) "Class II Contract" means any contract which the City enters into or reviews with a supplier or contractor after the effective date of the ordinance codified in this Chapter in an amount less than Ten Thousand Dollars (\$10,000.00), or to any contract with a supplier or contractor who does an aggregate annual business with the City of less than Ten Thousand Dollars (\$10,000.00).~~

~~(f) "Commission" means the Human Relations Commission as established by this Chapter.~~

~~(g) "Disability" means, with respect to an individual:~~

~~(1) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;~~

~~(2) A record of such an impairment; or~~

~~(3) Being regarded as having such an impairment.~~

~~Disability does not include current, illegal use of a controlled substance as defined in Section 102 of the Federal Controlled Substance Act (21 U.S.C. 802).~~

~~(h) "Discrimination" means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial or any other differentiation or preference in the treatment of a person or persons on account of age, race, religion, color, sex, familial status, national origin, ancestry or disability and/or any denial of any right, privilege or immunity secured by or protected by the Constitution or laws of Kansas or the United States. Discrimination shall include, but not be limited to, any practice which produces the demonstrable racial or ethnic effect without a valid business motive.~~

~~(i) "Employee" does not include any individual employee employed by such individual's parent, spouse or child or in the domestic service of any person.~~

~~(j) "Employer" includes any person doing business in this City employing four or more persons and any person acting directly or indirectly for an employer, labor organizations, non-secretarial corporations, organizations engaged in social service work and all political subdivisions of the city, state and federal governments, but does not include a nonprofit fraternal or social association or corporation.~~

~~(k) "Employment Agency" includes any person or government agency undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees.~~

~~(l) "Family" includes a single individual.~~

(m) "Familial status" means one or more individuals less than eighteen (18) years of age, domiciled with:

(1) A parent or another person having legal custody of such individual or individuals; or

(2) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protection afforded against discrimination on the basis of familial status shall apply 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 (18) years.

(n) "Firefighter" means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

(o) "Labor Organization" includes any organization which exists for the purpose, in whole or part, of collective bargaining, of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in relation to employment.

(p) "Law enforcement officer" means an employee, the duties of whose position are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses against the criminal laws of Kansas or of offenses against any ordinance or resolution which imposes criminal sanctions and is adopted by a city, county or other political subdivision of Kansas, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purposes of this subsection, "detention" includes the duties of employees assigned to guard individuals incarcerated in any penal institution.

(q) "Person" includes one or more individuals, partnerships, associations, organization, corporations, municipal corporations, quasi-municipal corporations, governmental agencies, public bodies, legal representatives, trustees, trustees in bankruptcy, receivers, fiduciaries, mutual companies or unincorporated organizations.

(r) "Person Aggrieved" means any person who claims to have been injured by an unlawful act or who believes that such person will be injured in any such unlawful act or practice that is about to occur.

(s) "Probable Cause" means the presence of a reasonable ground for belief in the existence of the allegation of a violation of any statute, ordinance or other authority, orders, rules or regulations.

(t) "Public Accommodations" means any person who caters or offers goods, services, facilities and accommodations to the public. Public accommodations include, but are not limited to, any lodging establishment or food service establishment, as defined by K.S.A. 36-501 and amendments thereto, any bar, tavern, barbershop, beauty parlor, theater, skating rink, bowling alley, billiard parlor, amusement park,

~~recreation park, swimming pool, lake, gymnasium, mortuary or cemetery which is open to the public; or any public transportation facility. Public accommodations do not include a nonprofit fraternal or social association or corporation. Public accommodations shall also include all City agencies which serve the public.~~

~~(u) "Real Property" means and includes:~~

~~(1) Any vacant or unimproved land;~~

~~(2) Any building or structure for occupancy, or any building designed or intended for occupancy, or any building or structure having a portion thereof which is occupied or designed or intended for occupancy.~~

~~(v) "Reasonable Accommodation" means:~~

~~(1) In the context of employment under this chapter, making existing facilities used by employees readily accessible to and useable by individuals with disabilities; and~~

~~(2) Job restructuring, part time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials or policies; provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.~~

~~(3) In the context of housing under this chapter, those reasonable measures which may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.~~

~~(w) "To rent" means to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.~~

~~(x) "Unlawful act or practice" means any unlawful employment practice, any unlawful discriminatory practice or any unlawful housing practice as defined in this Section.~~

~~(y) "Unlawful employment practices" includes only those unlawful practices and acts specified in Section 2.44.060.~~

~~(z) "Unlawful housing practice" means any act that is unlawful under Section 2.44.130.~~

~~(aa) "Unlawful discriminatory practice" means any discrimination against persons by reason of their race, religion, sex, color, disability, national origin or ancestry:~~

~~(1) In any place of public accommodations; or~~

~~(2) in the full and equal use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof.~~

(A) Established. There is hereby established an advisory commission to be known as the "City of Olathe Human Relations Commission," to carry out the objectives as described in this Chapter.

(B) Composition; appointment. The members of the human relations commission shall be appointed by the Mayor with the consent of the Governing Body. The commission shall consist of no less than nine (9) and no more than eleven (11) members, all persons who either live or work in the city.

(C) Representation. In selecting the membership of the commission, particular care shall be taken to ensure that the commission is broadly representative of racial, religious, gender and ethnic groups residing in the city.

(D) Removal. The Mayor, with the consent of the remaining members of the Governing Body, may remove any appointed member to the Committee at any time for good and sufficient cause. Cause shall include, but be not limited to, violations of the conflict of interest laws, any violation of any applicable law, regulation or policy, neglect of duty, and failure to comply with the City's attendance policy as set forth in City Council Policy CC-5.

(E) Terms of office; vacancies; reappointments. The existing members whose terms have not expired shall serve out their term. A member of the commission shall be appointed for a term of office of four (4) years and until his or her successor has been appointed. The appointees shall be appointed for staggered terms of office. When a vacancy occurs in the membership of the commission, it shall be filled by appointment for the unexpired portion of the term in the same manner as the original appointment. Members may be reappointed."

SECTION THREE: Section 2.44.030 of the Olathe Municipal Code is hereby amended to read as follows:

"2.44.030 ~~Created~~ Conduct of Meetings and Business.

~~(A) There is created a commission to be known as the Human Relations Commission. Said commission shall consist of eleven (11) members to be drawn from diverse segments of the community, who shall be citizens of the city, and who shall be appointed by the mayor, with the consent of the Governing Body. The terms of office of each member of the commission shall be for three (3) years or until a successor is appointed. No member shall serve more than two (2) successive full terms.~~

~~(B) The commission shall elect one of its members as chairperson who shall preside at all meetings of the commission and shall perform all duties and functions of the chairperson thereof. The commission shall elect, in the same manner, one of its members as vice chairperson who shall act as chairperson during the absence or incapacity the chairperson and, when so acting, the vice chairperson shall have and perform all the duties and functions of the chairperson. In the event neither the chairperson nor vice chairperson can attend a regular or special meeting,~~

~~the chairperson shall designate a member of the commission as acting chairperson for that meeting only. The term of office of the chairperson and vice chairperson shall be for one year and no person shall serve for more than two consecutive terms in the same office, unless such election to the immediately subsequent term is made by the members of the commission by a unanimous vote. The chairperson or vice chairperson may resign from his or her office at any during his or her term and may do so without resigning from the commission. In such event, the commission shall elect another member to replace that person and such person shall serve the unexpired term of the person he or she replaces. A majority of the presently serving members of the commission shall constitute a quorum for the purpose of conducting business thereof. The members of the commission shall serve without compensation.~~

~~(C) There is created the position of human relations director of the city to be appointed by and directly responsible to the city manager. Among the duties to which the director shall be assigned is that of administrative staff member to the commission.~~

~~(D) Prior to the holding of any hearing as required by this chapter, the Governing Body shall appoint a hearing examiner who shall be an attorney duly admitted to practice in the courts of the state. Compensation of the hearing examiner shall fixed by the Governing Body.~~

~~(E) The Governing Body may authorize the employment of such other personnel as may be reasonably necessary to carry out the provisions of this chapter.~~

(A) Organization. The human relations commission shall annually elect its own chairperson to preside over its meetings and may create and fill such other offices and committees among its members as may be found necessary and proper for its effective organization.

(B) Quorum. A majority of the membership of the commission shall constitute a quorum and, if a quorum is present, a vacancy on the commission shall not impair the right of the remaining members to exercise all the powers of the commission.

(C) Meetings. The commission shall meet at least quarterly. Special meetings may be called by the chairperson or three members of the commission. All meetings shall be conducted in accordance with Kansas Open Meetings Act and Kansas Open Records Act.

(D) Rules of procedure. The commission is authorized to adopt rules of procedure for the conduct of its meetings.

(E) Agreements. The commission may recommend that the Governing Body enter into agreements which enable the commission to build partnerships with other entities and organizations for the purpose of more efficiently and effectively carrying out its responsibilities.

(F) Compensation. Members of the commission shall receive no compensation.

(G) Staffing. The City Manager shall appoint staff to work with the commission and carry out the intent of this Chapter.

(H) Reports. The commission shall report to the Governing Body on no less than an annual basis regarding its affairs.”

SECTION FOUR: Section 2.44.040 of the Olathe Municipal Code is hereby amended to read as follows:

“2.44.040 Powers and Duties Expenses.

~~The commission shall have the following functions, powers, duties and responsibilities:~~

~~(A) To endeavor to eliminate prejudice among the various groups in the City and to further goodwill among all people of Olathe, and specifically, to encourage equality of treatment for and prevent discrimination against any persons with disabilities or any racial, religious, minority or ethnic group, or its members.~~

~~(B) To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this Chapter, and the policies and practices of the commission in connection therewith.~~

~~(C) To receive, initiate, investigate and pass upon complaints alleging discrimination in employment, public accommodations and housing because of race, religion, color, sex, disability, national origin or ancestry and complaints alleging discrimination in housing because of familial status.~~

~~(D) To subpoena witnesses, compel their appearance and require the production for examination of records, documents and other evidence or possible sources of evidence and to examine, record and copy such materials and take and record the testimony or statements of such persons. The commission may issue subpoenas to compel access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoena or interrogatories were issued or served in aid of a civil action in district court. The commission shall have access at all reasonable times to premises and may compel such access by application to a court of competent jurisdiction provided that the commission first complies with the provisions of Article 15 of the Kansas Bill of Rights and the Fourth Amendment to the United States Constitution relating to unreasonable searches and seizures. The commission may administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition was taken in aid of a civil action in the district court. In case of the refusal of any person to comply with any subpoena, interrogatory or search warrant issued hereunder, or to testify to any matter regarding which such person may be lawfully questioned, the district court of any county may, upon application of the commission, order such person to comply with such subpoena or interrogatory and to testify. Failure to obey the court's order may be punished by the court as contempt. No person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person~~

~~testifies or produces evidence, except such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons.~~

~~(E) To act in concert with other parties in interest in order to eliminate and prevent discrimination and segregation, prohibited by this Chapter, by including any term in a conciliation agreement as could be included in a final order under this Chapter.~~

~~(F) To apply to the district court of the county where the respondent resides or transacts business for enforcement of any conciliation agreement by seeking specific performance of such agreement.~~

~~(G) To issue such final orders after a public hearing as may remedy any existing situation found to violate this Chapter and prevent its recurrence.~~

~~(H) To create such advisory agencies and a conciliation committee as in the commission's judgment will aid in effectuating the purposes of this Chapter. Said agencies or committees shall be created:~~

~~(1) To study the problem of discrimination in all or specific fields or instances of discrimination because of age, race, sex, religion, disability, color, national origin or ancestry;~~

~~(2) To foster, through community effort or otherwise, goodwill, cooperation, conciliation, and segments of the population of the City;~~

~~(3) To recommend to the Human Relations Commission policies, procedures and programs of formal and informal education which the commission may recommend to the Governing Body of the City. Such advisory agencies or conciliation committees shall be composed of representative citizens of this City and shall serve without compensation. Nothing in this section shall be construed to prevent the Human Relations Commission itself from making the studies and performing the acts authorized by this section. It shall, by conference with the parties in interest, endeavor by conciliation and persuasion to eliminate discrimination in all the stated fields and to foster goodwill and cooperation among all segments of the population of this City.~~

~~(4) To accept contributions from any person or governmental unit to assist in the effectuation of this section and to seek and enlist the cooperation, including financial assistance, of private, charitable, religious, labor, civic and benevolent organizations. For the purposes of this section, all funds contributed shall be audited annually by the City Auditor.~~

~~(J) To issue such publications and such results of investigation and research as, in the judgment of the commission and Director, will tend to promote goodwill and minimize or eliminate, discrimination because of age, race, sex, religion, disability, color, national origin or ancestry.~~

~~(K) To render each year to the Governing Body of the City a full written report of all of its activities and recommendations.~~

~~(L) To solicit, receive and accept, through the Governing Body, city, county, state and federal funds to effectuate the purposes of this Chapter. Such funds shall be subjected to annual audit by the City Auditor.~~

~~(M) To cooperate with the governmental and nongovernmental agencies and organizations having like or kindred functions, and specifically to enter into contracts or agreements or memoranda of agreement with the Kansas Human Rights Commission and with the Federal Equal Employment Opportunity Commission, in order to carry out any and all assignments made through these agencies to the commission with the consent of the Governing Body.~~

~~(N) To meet regularly, once each month, at a place and time decided by the commission and at such other special meetings as may be called by the chairperson or by a majority of the members of the commission then presently serving.~~

~~(O) To regularly advise the members of the Governing Body, through distribution of its minutes, memoranda, reports and other pertinent documents of the items of business before the commission, of the ongoing state of each item, and the disposition of such items.~~

(A) Budget. The Governing Body may appropriate a budget for the commission to provide for necessary expenses and expenditures.

(B) Other funding. The commission may solicit, receive and accept, through the Governing Body, city, county, state and federal funds to effectuate the purposes of this Chapter. Such funds shall be subject to annual audit."

SECTION FIVE: Section 2.44.050 of the Olathe Municipal Code is hereby amended to read as follows:

"2.44.050 ~~Complaint-Filing, Service and Investigation~~ Conflicts of Interest.

~~(A) Any person claiming to be aggrieved by an alleged unlawful employment practice or by an alleged unlawful discriminatory practice may, personally or by an attorney at law, make, sign and file with the commission a verified complaint in writing which shall state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful employment practice complained of or the name and address of the person alleged to have committed the unlawful discriminatory practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the commission.~~

~~(B) The commission upon its own initiative may, in like manner, make, sign and file such complaint. Any employer whose employees or some of whom refuse or threaten to refuse to cooperate with the provisions of this Chapter, may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.~~

~~(C) Whenever any problem of discrimination because of age, race, religion, color, sex, disability, national origin or ancestry arises, or whenever the commission has, in its own judgment, reason to believe that any person has engaged in an unlawful employment practice or an unlawful discriminatory practice in violation of this Chapter, or~~

~~has engaged in a pattern or practice of discrimination, the commission may conduct an investigation without filing a complaint and shall have the same powers during such investigation as provided for the investigation of complaints. The person to be investigated shall be advised of the nature and scope of such investigation prior to its commencement. The purpose of the investigation shall be to resolve any such problems promptly. In the event such problems cannot be resolved within a reasonable time, the commission may issue a complaint whenever the investigation has revealed a violation of this Chapter has occurred. The information gathered in the course of the first investigation may be used in processing the complaint.~~

~~(D) After the filing of any complaint by an aggrieved individual or by the commission, the commission shall, within seven days after the filing of the complaint, serve a copy on each of the parties alleged to have violated this Chapter, and shall designate one of the commissioners to make, with the assistance of the commission's staff, prompt investigation of the alleged act of discrimination.~~

If any member of the commission concludes that they have a conflict of interest with respect to a matter which is pending before the commission, such member shall disqualify themselves from participating in any deliberations, discussions, and decision making processes of the commission.

SECTION SIX: Section 2.44.060 of the Olathe Municipal Code is hereby amended to read as follows:

"2.44.060 Rehearing Procedure Powers and Duties.

~~Any party being dissatisfied with any order or decision of the hearing examiner may within ten (10) days from the date of the service of such order or decision apply for a rehearing in respect to any matter determined therein; the application shall be granted or denied by the hearing examiner within ten (10) days from the date same shall be filed and if the rehearing be not granted within ten (10) days, it shall be taken as denied. If a rehearing be granted, the matter shall be determined by the hearing examiner within thirty (30) days after the same shall be submitted. No cause of action arising out of any order or decision of the hearing examiner shall accrue in any court to any party unless such party shall make application for a rehearing as herein provided. Such application shall set forth specifically the ground or grounds on which the applicant considers such order or decision to be unlawful or unreasonable. No party shall in any court urge or rely upon any ground not set forth in said application. An order made after a rehearing abrogating, changing or modifying the original order or decision shall have the same force and effect as an original order or decision.~~

The powers and duties of the commission shall be:

(A) Outreach, education, and community advocacy. Engage in such outreach, education and community advocacy as, in the judgment of the commission or the Governing Body, may be needed to improve human relations in the city;

(B) Recommendations. Review city programs, activities, functions and ordinances, and make recommendations to the city council for new,

amended or changed programs, functions, activities or ordinances which would support inclusiveness and civility among city residents and enhance communication and understanding among residents of the city;

(C) Intergroup conflicts. Inquire into incidents of intergroup conflicts and disputes within the city and take such action as may be designed to alleviate such conflicts and disputes;

(D) Intergroup cooperation. Promote and encourage communications between and cooperation of all groups interested in bettering human relations in the city;

(E) Complaints. Seek the active assistance of the Kansas Human Rights Commission (KHRC) in the solution of complaints of alleged discrimination which fall within the jurisdiction of the KHRC, and of the United States Department of Housing and Urban Environment (HUD) in the solution of complaints of alleged discrimination involving housing which fall within the jurisdiction of HUD;

(F) Programs. Develop and maintain programs that build positive relations among communities and enhance problem-solving skills among residents throughout the city; and

(G) Other functions. Do all other acts and deeds necessary and proper to carry out and effectively accomplish the objectives, functions and services contemplated by the provisions of this chapter and as directed by the Governing Body.”

SECTION SEVEN: Section 2.44.070 of the Olathe Municipal Code is hereby amended to read as follows:

“2.44.070 ~~Unlawful Employment Practices~~ Equal Employment Opportunity Program for Public Contracts.

~~(A) It shall be unlawful employment practice:~~

~~(1) For an employer, because of the age, race, religion, color, sex, disability, national origin or ancestry of any person to refuse to hire or employ such person, to bar or discharge such person from employment or to otherwise discriminate against such person in compensation or in terms, conditions, or privileges of employment; to limit, segregate, separate, classify or make any distinction in regards to employees; or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation without a valid business motive.~~

~~(2) For a labor organization, because of the age, race, religion, color, sex, disability, national origin or ancestry of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.~~

~~(3) For any employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of~~

~~application for employment or membership or to make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, race, religion, color, sex, disability, national origin or ancestry, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.~~

~~(4) For any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because such person has opposed any practices or acts forbidden under this Chapter or because such person has filed a complaint, testified or assisted in any proceeding under this Chapter.~~

~~(5) For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of such person's age, race, religion, color, sex, disability, national origin or ancestry, or to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to age, race, religion, color, sex, disability, national origin or ancestry.~~

~~(6) For an employer, labor organization, employment agency, or school which provides, coordinates or controls apprenticeship, on-the-job, or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of age, race, religion, color, sex, disability, national origin or ancestry, in admission, hiring, assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.~~

~~(7) For any person, whether an employer or an employee or not to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this Chapter, or attempt to do so.~~

~~(8) For an employer, labor organization, employment agency or joint labor-management committed to:~~

~~(a) Limit, segregate or classify a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;~~

~~(b) participate in a contractual or other arrangement or relationship, including a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee or an organization providing training and apprenticeship programs that has the effect of~~

~~subjecting a qualified applicant or employee with a disability to the discrimination prohibited by this Chapter;~~

~~(c) utilize standards, criteria, or methods of administration that have the effect of discrimination on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative controls;~~

~~(d) exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;~~

~~(e) not make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such employer, labor organization, employment agency or joint labor-management committee can demonstrate that the accommodation would impose an undue hardship on the operation of the business thereof;~~

~~(f) deny employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need to make reasonable accommodation to the physical or mental impairments of the employee or applicant;~~

~~(g) use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used, is shown to be job-related for the position in question and is consistent with business necessity; or~~

~~(h) fail to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).~~

~~(9) For an employer to reduce the wage rate of any employee in order to comply with the age discrimination provisions of this Chapter.~~

~~(10) For an employer, employment agency, labor organization or any combination thereof to establish or maintain an employee pension benefit plan which requires or permits:~~

~~(a) in the case of a contribution plan, the cessation of an employee's benefit accrual or the reduction of the rate of an employee's benefit accrual, because of age; or~~

~~(b) in the case of a contribution plan, the cessation of allocations to an employee's account or the reduction of the rate at which amounts are allocated to an employee's account, because of age.~~

~~Nothing in this subsection (a.10.) shall be construed to prohibit an employer, employment agency or labor organization or any combination thereof from observing any provision of an employee pension benefit plan to the extent that such provision imposes, without regard to age, a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.~~

~~(B) It shall not be an unlawful employment practice to:~~

~~(1) Fill vacancies in such way as to eliminate or reduce imbalance with respect to race, religion, color, sex, disability, national origin or ancestry;~~

~~(2) Take any action on the basis of age, which is otherwise prohibited under subsection (a), if age is a bona fide occupational qualification necessary to the normal operation of the particular business or if the differentiation is based on necessary factors other than age;~~

~~(3) Observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this Chapter, except that no such employee benefit plan shall excuse the failure to hire any individual and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual;~~

~~(4) Observe the provisions of a retirement, pension or other benefit plan permitted by state or federal law or by ordinance or resolution; or~~

~~(5) Before January 1, 1994, for this state or any political subdivision of this state, or any agency or instrumentality thereof, or any interstate agency, to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken:~~

~~(a) With respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable state or local law on March 3, 1983, and~~

~~(b) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purpose of this Chapter.~~

(A) Establishment of Equal Employment Opportunity Program for Public Contracts. An equal employment opportunity program for public contracts is hereby established, which includes the requirements provided in this section and any rules and regulations established pursuant to this section. A copy of such rules and regulations will be available at the City Clerk's Office during regular hours of business.

(B) Applicability. The provisions of this section apply to any contract which the City enters into or renews with a supplier or contractor after the effective date of the ordinance codified in this Chapter in an amount equal to or more than the amount at which a formal bid or proposal is required under the City's procurement requirements, or to any contract with a supplier or contractor who does an aggregate annual business with the City equal to or in excess of that amount.

(C) Authority and Duties of the community relations manager. The community relations manager or designee is charged with administration and enforcement of this section and is authorized and empowered:

(1) To establish rules and regulations pertaining to the Equal Employment Opportunity Program for Public Contracts; to amend those rules and regulations from time to time; to receive, review, and recommend approval or rejection of information submissions from suppliers or contractors; to certify eligible suppliers or contractors to the city.

(2) To initiate investigations into, survey, and review all information submittals and contracts subject to this section, and to take such action with respect thereto as shall insure compliance with the terms of this section, subject to approval of the city manager.

(3) To initiate and file with the Human Relations Commission complaints alleging violation of this section.

(4) To receive, investigate, and rule upon, or pass on to the Human Relations Commission complaints of violations of this section.

(D) Contract Conditions. Contracts subject to this section must include the following conditions:

(1) The supplier or contractor shall not discriminate against any person in the performance of work under the contract because of race, religion, color, sex, disability, national origin, or ancestry.

(2) In all solicitations or advertisements for employees, the supplier or contractor shall include the phrase, "Equal Opportunity Employer," or a similar phrase to be approved by the community relations manager.

(3) If the supplier or contractor fails to comply with the provisions of this section, the supplier or contractor shall be deemed to have breached the contract and it may be rescinded, terminated, or suspended in whole, or in part, by the Governing Body.

(4) The supplier or contractor shall include the provisions of this section in every subcontract so that such provisions will be binding upon such subcontractor.

(E) Personnel Practices Submission. For any contract subject to this section, the supplier or contractor must, prior to execution of the contract, submit in writing to the community relations manager information regarding personnel practices according to a form provided by the city; provided that, if any supplier or contractor fails or refuses to submit the information required by this section, such supplier or contractor shall be ineligible to enter into any contract subject to this section or to receive any said contract from the city until it has so complied.

(F) Review of Personnel Practices Submission. The community relations manager will receive and review information submitted to him or her and will specify in writing any modification needed to make it conform to the requirements of this section; provided that, prior to rejection of any submission, the manager will advise and consult with the supplier or contractor submitting such information for the purpose of assisting it to develop an acceptable submission.

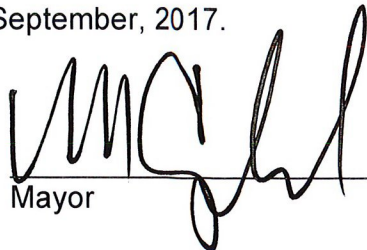
(G) Submission and Renewals. Information submitted by a supplier or contractor may be considered for multiple bids or proposals. Such submission will be subject to review by the community relations manager and will be amended at such time and in such manner as the manager may require. The manager may allow submissions to be renewed in a manner and for a renewal term as provided by the manager."

SECTION EIGHT: Existing Sections 2.44.010, 2.44.011, 2.44.020, 2.44.030, 2.44.040, 2.44.041, 2.44.042, 2.44.050, 2.44.051, 2.44.052, 2.44.060, 2.44.061, 2.44.062, 2.44.070, 2.44.080, 2.44.090, 2.44.091, 2.44.092, 2.44.093, 2.44.094, 2.44.100, 2.44.110, 2.44.120, and 2.44.130 are hereby repealed.

SECTION NINE: This Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

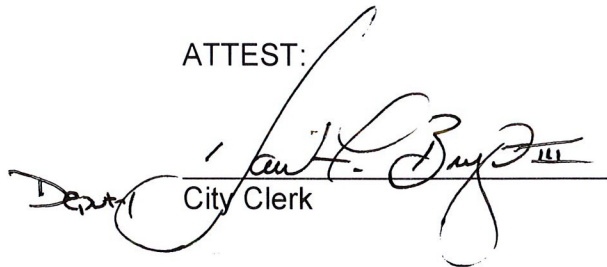
PASSED by the Governing Body this 19th day of September 2017.

SIGNED by the Mayor this 19th day of September, 2017.



Mayor

ATTEST:



Deputy City Clerk

(SEAL)



APPROVED AS TO FORM:



City Attorney

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.