

AN ORDINANCE AUTHORIZING AN AMENDMENT TO CHAPTER 18 "HUMAN RIGHTS" OF THE CODE OF ORDINANCES TO PROVIDE REGULATIONS FOR NON-DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATION AND HOUSING.

WHEREAS, Chapter 18 of the Code of Ordinances, titled "Human Rights," provides a procedure for handling complaints filed by persons with concerns about the City of St. Joseph's compliance with any aspect of the Americans with Disabilities Act of 1990 and provides protections against discrimination related to the sale or rental of housing; and

WHEREAS, the City of St. Joseph now seeks to establish a collaborative process for resolving disputes related to discrimination in employment, housing, and public accommodation based on race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity, or status as a member of the uniformed services; and

WHEREAS, the process that the City of St. Joseph now seeks to adopt has been developed through a series of four City Council work sessions and meetings between interested parties.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. JOSEPH, MISSOURI, AS FOLLOWS:

SECTION 1. That the City of St. Joseph, Missouri, hereby enacts this ordinance in order to promote nondiscriminatory practices in employment, housing, and public accommodation based on race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity, or status as a member of the uniformed services and that in order to promote such nondiscriminatory practices, the City now establishes a collaborative process for resolving disputes related to such discrimination and states its support for state and federal laws prohibiting such discrimination.

SECTION 2. That Chapter 18 of the Code of Ordinances of the City of St. Joseph, Missouri, be, and hereby is, amended by enacting in lieu thereof a new Section 18-1 to be numbered, entitled and read as follows:

Sec. 18-1. Purposes of chapter.

The purposes of this chapter are:

- (1) To establish a procedure for handling complaints filed by persons who are concerned about the city's compliance with any aspect of the Americans with Disabilities Act of 1990, as amended.
- (2) To establish provisions based on state law to protect human rights against discrimination in the sale and rental of housing.
- (3) To discourage discrimination in employment, housing, and public accommodation based on race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity, or status as a member of the uniformed services.

- (4) To establish processes for resolving disputes in a non-public forum related to allegations of discrimination in employment and the sale or rental of housing based on race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity, or status as a member of the uniformed services.
- (5) To discourage discrimination in employment based on age when such discrimination is disallowed by state or federal law.
- (6) To state the city's support for the policies embodied in state and federal human rights legislation, and to promote cooperation between the city and the state and federal agencies enforcing that legislation.
- (7) To provide a city commission on human rights which is dedicated to the purposes described in the article establishing that commission.

SECTION 3. That Chapter 18 of the Code of Ordinances of the City of St. Joseph, Missouri, be, and hereby is, amended by adding a new article to be numbered, entitled and read as follows:

ARTICLE IV. NON-DISCRIMINATION IN EMPLOYMENT, PUBLIC
ACCOMMODATION, AND HOUSING

Sec. 18-101. Definitions.

For the purposes of this article, the following words and terms shall have the meanings respectively ascribed:

- (1) *Commission*. The Commission on Human Rights as provided by this article.
- (2) *Disability*. A physical or mental impairment that qualifies as a disability as defined by 42 U.S.C. 12102, as amended.
- (3) *Employer*. The city or any business entity, including a sole proprietorship, which employs one or more individuals within the jurisdiction of the city, exclusive of parents, spouse, or children of such person and exclusive of the federal and state governments and the agencies and political subdivisions thereof.
- (4) *Gender identity*. The gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.
- (5) *Public accommodation*. All places or businesses offering or holding out to the general public, goods, services, privileges, facilities, advantages, and accommodations for the peace, comfort, health, welfare, and safety of the general public, and such public places providing food, shelter, recreation, and amusement.

- (6) *Sexual orientation.* Male or female homosexuality, heterosexuality, and bisexuality, by preference, practice, or as perceived by others, between consensual adults, but not including sexual preference or practice between an adult and a minor.
- (7) *Uniformed services.* The Armed Forces and national guard forces when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, System members of the National Urban Search and Rescue Response System during a period of appointment into Federal service under section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and any other category of persons designated by the President in time of war or national emergency. This definition shall exclude any person whose protection has terminated under Title 38, United States Code, Chapter 43 – Employment and Reemployment Rights of Members of the Uniformed Services, pursuant to 38 U.S.C. § 4304, as amended.

Sec. 18-102. Commission created; membership.

(a) *Creation; membership.* There shall be a Commission on Human Rights which shall consist of nine members. The commission shall include members associated with the following sectors: (i) local social service agencies, (ii) educational community, (iii) employer with fewer than 50 employees, and (iv) employer with 50 or more employees. Members shall be residents of the city, shall reside in the city during their term of office, shall take the oath prescribed for city officials, and shall serve without compensation. The mayor and city council shall endeavor to include, but not limit membership to, commission members who are members of the classes protected by this article.

(b) *Appointment.* Members of the commission shall be appointed by the mayor with the approval of the city council. The mayor shall endeavor to seek the advice of separate members of the city council for each of eight of the appointments.

(c) *Terms.* Of the first nine members appointed to serve on the commission, three shall be appointed for one-year terms, three shall be appointed for two-year terms, and three shall be appointed for three-year terms. All subsequent appointments shall be for three-year terms. All members shall serve their terms and continue to serve until their successors are appointed or they resign from the commission. No member of the commission who has served a full three-year term shall be eligible to immediately succeed himself or herself. Vacancies shall be filled for the unexpired term of any members whose terms become vacant.

Sec. 18-103. Officers; meetings; quorum; rules and procedures.

(a) The commission shall organize annually by electing one of its members as chairman and one of its members as vice-chairman. The commission may establish such rules of procedure and organization as it deems necessary that are not inconsistent with the charter, ordinances, or the laws of the state. The chairman shall

preside at all meetings, but in the absence of the chairman or such person's inability to preside at any meeting, the vice-chairman shall preside. A majority of the appointed members shall constitute a quorum.

(b) The commission shall meet periodically as necessary.

(c) The city manager shall assign staff support for the commission, including the assignment of staff support to serve as a recording secretary.

Sec. 18-104. Powers and duties.

(a) To the extent described in subsection (b) of this section, the commission shall have the following functions, powers, and duties:

- (1) To encourage fair treatment for all persons, consistent with the purposes of this article, and enlist the cooperation of other public and private organizations to discourage discrimination.
- (2) To advise the city council on human rights issues and make recommendations on the modifications of this article on a periodic basis or on the request of the city council.
- (3) To carry out the city council's direction to hold public hearings, conduct studies, and assemble data on human rights issues.
- (4) To organize and conduct educational programs, workshops, and other events to improve human relations and eliminate discriminatory practices.
- (5) To make appropriation recommendations to the city manager for funding specific efforts to improve human relations and eliminate discriminatory practices.
- (6) To identify third-party mediation forums to which individuals alleging discrimination may be referred to resolve disputes related to discriminatory employment actions.
- (7) On direction of the city council, to create committees for the purpose of fulfilling the powers and duties described in this section.
- (8) To take other actions as specifically assigned in this article.

(b) Such powers and duties shall only apply to the following:

- (1) Discrimination in employment based upon age (when such discrimination is disallowed by state or federal law), race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity, and protected membership of the uniformed services.
- (2) Discrimination in public accommodation based upon race, color, religion, sex,

national origin, ancestry, marital status, disability, sexual orientation, gender identity, and protected membership of the uniformed services.

- (3) Discrimination in housing based upon ancestry, marital status, disability, sexual orientation, gender identity, and protected membership of the uniformed services.

Sec. 18-105. Human rights enhancement activities.

(a) Upon the recommendation of the commission, the city manager is authorized to enter into agreements with local organizations for human rights enhancement activities, provided no program or organization shall receive more than \$500.00 in any fiscal year for human rights enhancement without the approval of the city council.

(b) Expenditures under this section are limited to the availability of funds appropriated for the purposes stated herein.

Sec. 18-106. Mediation assistance; employment and housing.

(a) *Requirements to file a request for mediation assistance.* A person may file a request for mediation assistance to resolve an allegation of discrimination in employment or the sale or rental of housing pursuant to this article when all the following occur:

- (1) The requestor alleges he or she has been personally discriminated against in employment or the sale or rental of housing and suffered a detrimental effect based on his or her race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity, or status as a member of the uniformed services.
- (2) The alleged discrimination occurred in conjunction with employment in the city or with housing located at property in the city.
- (3) The requestor has notified the employer's human resources department, similar department, or executive management, or, for claims of discrimination in the sale or rental of housing, the housing provider, of the allegations of discrimination and provided more than seven calendar days for a response.
- (4) The alleged discriminatory event occurred in the immediately preceding 60 calendar days.

(b) *Filing process.* A request for mediation assistance shall be filed with the city manager, or his or her designee, by submitting the following:

- (1) The name and address of the requestor.
- (2) The identity and address of the employer or housing provider with which mediation is sought.

- (3) The address of the employment location or housing property at which the alleged discrimination occurred.
- (4) The protected class or classes upon which the alleged discrimination is based.
- (5) The date upon which the alleged discrimination occurred.
- (6) The date on which the employer or housing provider was notified of the alleged discrimination as required by this section.
- (7) Such other information that the city manager, or his or her designee, may require to contact the requestor and employer or housing provider.

No other information related to the request for mediation assistance may be filed.

(c) *Request processing.* Within ten business days following receipt of a completed request for mediation assistance, the city manager, or his or her designee, shall assess the allegations to determine whether (i) all procedural requirements have been met to file a request for mediation assistance; (ii) if the allegations, if substantiated, reasonably appear to constitute discrimination in employment or the sale or rental of housing; and (iii) a detrimental effect on the requestor has been suffered as a result of a discriminatory act based on his or her race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity, or status as a member of the uniformed services. If all procedural requirements have been so met and the allegations, if substantiated, reasonably appear to constitute such discrimination, the request shall be referred to mediation assistance as set forth in this section; otherwise the request shall be denied and the requestor shall be notified of such denial. Only the allegation, as submitted, may be considered pursuant to this subsection; the factual accuracy of the allegation may not be considered in reaching a determination pursuant to this subsection.

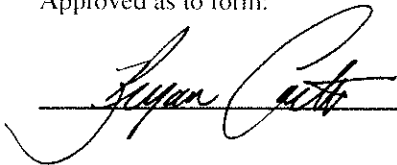
(d) *Review of determination.* A requestor may request review of the city manager, or his or her designee's, determination that a request for mediation assistance did not qualify for referral for mediation assistance by submitting a written request for such review within 15 calendar days of the prior determination. Upon receipt of request for review, the requestor and the employer against whom the allegation of discrimination has been made shall be notified of a date, time, and location at which the commission will review the prior determination. When feasible, that review shall occur within 90 days following receipt of the request for review. During the meeting at which the commission hears the request for review, the commission shall consider the record upon which the city manager, or his or her designee, based the prior determination without considering new documentation, testimony, or other information. The commission shall not determine if discrimination has or has not actually occurred, but shall determine if all procedural requirements of this section have been met and if the allegations, if substantiated, reasonably appear to constitute discrimination in employment or the sale or rental of housing based on race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity, or status as a member of the uniformed services. If procedural requirements of this section have been met and if the allegations, if substantiated, reasonably appear to

constitute discrimination in employment based on race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity, or status as a member of the uniformed services, the request shall be referred to mediation assistance as set forth in this section. The commission shall render its decision within ten business days and notify both the requestor and the employer of such decision.

(e) *Referral to mediation assistance.* Upon a determination that a request for mediation is eligible for referral to mediation assistance, the request shall be referred to a mediator, or a professional of a similar status. That professional may be jointly selected by the requestor and employer or housing provider from a list of professionals maintained by the commission or by agreement on another professional. Nothing in this article shall be deemed to render a resolution developed through mediation assistance to be binding unless the requestor and employer or housing provider enter into an independent binding agreement.

- SECTION 4. That the section currently contained in Chapter 18, Article I "In general" and numbered Section 18-1 becomes Section 18-10 under a new "Article II. Americans with Disabilities Act of 1990," but otherwise remains unchanged.
- SECTION 5. That Sections 18-26 through 18-76 remain unchanged; but the current "Article II. Protection of Human Rights from Discrimination in Housing" is renumbered as Article III.
- SECTION 6. That any ordinances or parts of ordinances in conflict with this ordinance be, and hereby are, repealed.
- SECTION 7. That if any provision of this ordinance is found to be invalid, such provision shall be considered to be severable from the other parts of this ordinance and shall not affect the validity of the remaining parts of this ordinance.
- SECTION 8. That this ordinance shall be in full force and effect from and after date of passage.

Approved as to form:



City Attorney

Passed _____, 20____

Attest: _____

City Clerk

Mayor

DATE: August 23, 2018
TYPE OF ORDINANCE: General

CITY CLERK
2018 AUG 23 AM 8:48

EXPLANATION TO COUNCIL BILL

ORIGINATING DEPARTMENT: Legal

PURPOSE: Authorize an amendment to Chapter 18 "Human rights" of the Code of Ordinances to provide regulations for non-discrimination in employment, public accommodation and housing.

REMARKS: The proposed ordinance will reorganize the existing Chapter 18, titled "Human Rights," to accommodate the addition of a new Article IV, titled "Non-Discrimination in Employment, Public Accommodation, and Housing."

- The existing Section 18-1 will be moved to Section 18-10, but will otherwise remain unchanged under a new Article II.
- Sections 18-26 through 18-76 will also remain unchanged, but the article in which they appear will be renumbered from Article II to Article III.
- A new Article IV, titled "Non-Discrimination in Employment, Public Accommodation, and Housing" will be adopted.


The new Non-Discrimination in Employment, Public Accommodation, and Housing article will establish a nine-member Commission on Human Rights with powers and duties related to outreach, advising the City Council and staff, educating, and identifying third-party mediation forums. The article also establishes a process under which a "request for mediation assistance" can be sought to resolve allegations of discrimination based upon race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity, or status as a member of the uniformed services when such discrimination occurs in employment or the sale or rental of housing. When someone making a request for mediation assistance meets the following three requirements, their request will be referred to private mediation:

1. The requestor complies with all procedural requirements.
2. The allegations, if substantiated, reasonably appear to constitute discrimination in employment or the sale or rental of housing.
3. The requestor has suffered a detrimental effect because of a discriminatory act based on his or her race, color, religion, sex, national origin, ancestry, marital status disability, sexual orientation, gender identity, or status as a member of the uniformed services.

Requests for mediation will be considered administratively by a City staff member and if the request is denied, the requestor will have the ability to appeal to the Commission. If a request is granted administratively or by the Commission, it will be referred to a mediator that is jointly selected by the requestor and the employer or housing provider.

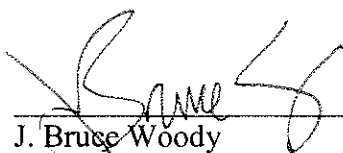
City staff members anticipate the Legal Department will provide initial City staff support to the Commission.

Submitted by:



Bryan Carter
City Attorney

Reviewed by:



J. Bruce Woody
City Manager

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