

AN ORDINANCE

NO.

An Ordinance amending Chapter 2 of the Columbus Code by adopting a new Article XXII to be known as the Columbus, Georgia Non-discrimination Ordinance; and for other purposes.

THE COUNCIL OF COLUMBUS, GEORGIA HEREBY ORDAINS:

SECTION 1.

A new Article XXII of Chapter of the Columbus Code is hereby adopted in its entirety to read as follows:

"Article XXII Columbus, Georgia Non-discrimination Ordinance

Sec. 2-295. Purpose and Intent. It is the purpose and intent of the Columbus Council to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, and to ensure that all persons within Columbus, Georgia, have equal access to employment, housing, and public accommodations. This ordinance shall not be construed in such a way as to limit or violate the State or Federal Constitutional rights of any citizen or organization.

Sec. 2-296. Definitions. For the purposes of this ordinance, the following terms shall have the following meanings:

- (1) AFFIRMATIVE ACTION PLAN: An Affirmative Action Plan (AAP) is a management tool, a written program in which an employer details the steps it has taken and will take to ensure the right of all persons to advance on the basis of merit and ability without regard to race, color, religion, gender, sexual orientation or identity, national origin, age, disability, genetic information, familial status, veteran's status or other factors which cannot lawfully be the basis for employment actions. Affirmative actions include training programs, outreach efforts, and other positive steps. These procedures shall be incorporated into the company's written personnel policies, kept on file and updated annually.
- (2) AGE. An individual's status as having obtained forty or more years of age.

- (3) APPLICANT. Any individual seeking employment from a Business located within Columbus, Georgia, excluding any individual seeking employment from his or her parents, spouse, or child.
- (4) BUSINESS. Any person or entity conducting a **for-profit** business in Columbus, Georgia, which is required to obtain or provide proof of a business license or permit. For purposes of this ordinance, no department of any government agency shall be considered to be a business (notwithstanding licensure by the Columbus, Georgia Consolidated Government). A Business shall include any City Contractor.
- (5) CITY CONTRACTOR. Any person, corporation, or entity that has a contract to do business with the Columbus Consolidated Government.
- (6) DISCRIMINATE, DISCRIMINATION OR DISCRIMINATORY. Any act, policy or practice that, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status.
- (7) EMPLOYEE. Any individual employed by an employer located within Columbus, Georgia, excluding any individual employed by his or her parents, spouse, or child.
- (8) EMPLOYER. A person who employs one or more employees in the City of Columbus, or any agent of such person.
- (9) FAMILIAL STATUS. Means an individual's past, current or prospective status as parent or legal guardian to a child or children below the age of eighteen (18) who may or may not reside with that individual.
- (10) GENDER IDENTITY. The gender-related identity, expression, appearance, or mannerisms, or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.
- (11) MARITAL STATUS. An individual's past, current, or prospective status as single, married, domestically partnered, divorced, or widowed.

- (12) NATIONAL ORIGIN. An individual's or his or her ancestor's place of origin.
- (13) PLACE OF PUBLIC RESORT, ACCOMMODATION, ASSEMBLAGE, OR AMUSEMENT. Any place, store, or other establishment provided by a Business in Columbus, Georgia that supplies accommodations, goods, or services to the general public, or that solicits or accepts the patronage or trade of the general public, or that is supported directly or indirectly by government funds. The term does not include any private club, bona fide membership organization, or other establishment that is not in fact open to the public.
- (14) RELIGION. All aspects of religious belief, observance, and practice.
- (15) SEXUAL ORIENTATION. Homosexuality, heterosexuality, or bisexuality.
- (16) VETERAN STATUS. An individual's status as one who served in the active military, naval or air service.

Sec. 2-297. Civil Rights Declared. The right of an otherwise qualified person to be free from discrimination because of that person's race, color, religion, national origin, sex, gender, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status is recognized as and declared to be a civil right. This right shall include, but not be limited to, all of the following:

- (1) The right to obtain and hold employment and the benefits associated therewith without discrimination.
- (2) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement without discrimination.
- (3) The right to engage in property transactions, including obtaining housing for rental or sale and credit therefore, without discrimination.
- (4) The right to exercise any right granted under this ordinance without suffering coercion or retaliation.

Sec. 2-298.Unlawful Practices.

- (a) It shall be an unlawful, discriminatory practice for a business which has **fifteen (15) or more employees**, because of the race, religion, color, sex, disability, national origin, ancestry, sexual orientation, gender identity or military status 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.
- (b) It shall be an unlawful discriminatory practice for a business, **regardless of number of employees**, to discriminate against any person in the terms, conditions, or privileges of sale or rental of real property or rental housing, or in the provision of services or facilities in connection therewith, because of race, religion, color, sex, disability, familial status, national origin, ancestry, sexual orientation, gender identity or military status, or to discriminate against any person in such person's use or occupancy of rental housing because of the race, religion, color, sex, disability, familial status, national origin, ancestry, sexual orientation, gender identity, or military status of the people with who such person associates.
- (c) It shall be an unlawful discriminatory practice for any business, as defined herein which has **fifteen (15) or more employees** which provides any place of public accommodation, to refuse, deny or make a distinction, directly or indirectly, in offering its goods, services, facilities, and accommodations to any person as covered by this ordinance because of race, religion, color, sex, disability, national origin, ancestry, sexual orientation, gender identity, or military status.
- (d) Nothing in this ordinance shall be construed to mean that a business shall be forced to hire unqualified and/or incompetent personnel or discharge qualified and/or competent personnel.

- (e) Nothing in this ordinance shall be construed to mean that a business cannot uniformly enforce nuisance laws or other ordinances governing the operations on its premises.
- (f) Nothing in this ordinance shall be construed to govern activities of any business which are conducted outside of the territorial jurisdiction of Columbus, Georgia.

Section 2-299. Exceptions. Notwithstanding the foregoing, the following are not discriminatory practices prohibited by Sec.2-298 of this ordinance:

- (1) A religious corporation, association, or society that employs an individual of a particular religion to perform work connected with the performance of religious activities by the corporation, association, or society.
- (2) An employer who observes the conditions of a bona fide affirmative action plan or a bona fide merit system which is not a pretext to evade the purposes of this ordinance.

Section 2-300. Procedures for Complaint Resolution.

- (a) Any person aggrieved by a potential violation of this ordinance may file a verified Complaint with the Clerk of Council on a form to be provided by the Consolidated Government. Any such Complaint must be filed within sixty (60) days after the alleged act of discrimination. A filing fee of \$25.00 shall be paid by the Complainant contemporaneously with the filing of all discrimination Complaint unless the filer requests the opportunity to make a showing of economic hardship to the Hearing Officer and receive a waiver of the filing fees.
- (b) Upon receipt of a Complaint under this ordinance, the Clerk of Council will transmit a copy of the Complaint to the City Attorney's Office for assignment to a Hearing Officer who (i) shall be a competent attorney at law of good standing in his

or her profession, and (ii) shall have at least five (5) years' experience in the practice of law. The City Attorney shall maintain a list of no fewer than five (5) qualified attorneys, who must be licensed to practice law in the state of Georgia. The City Attorney shall draw names randomly from the list of qualified Hearing Officers and appoint the first one who is available to serve in the matter.

- (c) The Hearing Officer assigned to the case shall cause the Complaint to be served on the person charged with a violation as soon as practicable. Service may be by personal service, by certified mail, return receipt requested, or by statutory overnight delivery. In the event the complaint is against a corporation or other business entity registered with the Georgia Secretary of State's Office, service shall be made on that entity's registered agent.
- (d) The alleged violator shall have fifteen (15) days from the date of service to file a verified Answer to the Complaint; however, the alleged violator shall have no obligation to file an Answer to any Complaint.
- (e) After the period for answering the Complaint has run, the Hearing Officer shall review the complaint and any answer to determine if there is reasonable cause to believe that a violation has occurred. The Hearing Officer will confirm that the complaint is in conformity with the requirements of Section 2-300(a) and the Hearing Officer shall then determine whether (i) upon consideration of the Complaint and Answer, the Complaint is unjustified, frivolous, or patently unfounded, or (ii) whether upon consideration of the Complaint and Answer, the Complaint demonstrates facts sufficient to invoke jurisdiction as set forth in this ordinance.
- (f) If the Complaint fails based upon the requirements of the foregoing subsection (e), the Complaint shall be dismissed and the Hearing Officer shall state in writing the basis for such dismissal.

- (g) If the Hearing Officer determines that reasonable cause exists to believe a violation has occurred, the Hearing Officer shall refer the parties to a mediator for non-binding mediation. The Complaint must be referred to a mediator no sooner than fifteen (15) days and no later than forty-five (45) days after the Answer period provided in the foregoing subsection (d) above. Participation in mediation shall be voluntary for both parties. The mediator shall be selected from a list provided by the Office of Dispute Resolution of the Chattahoochee Judicial Circuit, and the mediation will be conducted in accordance with procedures established by that office. Any fees charged by the mediator shall be split equally between the parties, unless at the conclusion of the mediation both parties agree to assess these costs of mediation in some other manner, and if so that manner shall be placed in writing and signed by both parties. In no circumstance shall the costs of mediation be borne by the Consolidated Government.
- (h) If the matter is not conclusively resolved through mediation, or if either party elects not to participate in mediation, the assigned Hearing Officer will set the matter down for a hearing and determination.

Sec. 2-301. - Hearing and Determination.

- (a) If the Complaint is not be dismissed pursuant to the foregoing subsection 2-300(f), the Hearing Officer shall be empowered to hear and consider evidence and information concerning any Complaint and to add the findings and results of investigations to the file containing such Complaint. In furtherance of this investigation, the Hearing Officer shall conduct a hearing regarding the allegations set forth in the Complaint. At the hearing, both the alleged violator who is the subject of inquiry, and the person filing the Complaint, shall have the right: (i) to representation by counsel at all stages of these proceedings, (ii) to written notice of the hearing at least fourteen (14) calendar days before the hearing via mail to the person's last known address, (iii) to hear and examine the evidence and witnesses, (iv) to

decline to testify, and (v) to submit evidence and call witnesses to oppose or mitigate the allegations. In all hearings held under this section, formal legal rules of evidence shall not be strictly applied. Evidence may be admitted if it is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. The hearing offer shall follow the Georgia Rules of Evidence regarding privileges recognized by state law. The complaining party shall be required to prove the complaint by a preponderance of the evidence.

- (b) All hearings under this section shall be completed within thirty (30) days of the date on which the Hearing Officer was advised of the parties' refusal to participate in mediation or the failure of the mediation to resolve the case.
- (c) Within fifteen (15) days of the completion of the hearing, the Hearing Officer shall issue a written order either:
 - i. Finding that no violation of this ordinance has been proven. or
 - ii. Finding that a violation of this ordinance has occurred, and the Hearing Officer may apply a civil penalty in an amount up to \$500.00 for each violation or as appropriate require up to forty (40) hours of sensitivity training for the responding business.
- (d) In addition, the Hearing Officer's fees accrued from the point that mediation is refused or fails shall be assessed to the non- prevailing party unless the Hearing Officer determines the circumstances warrant assessing the costs in some other manner. Provided, however, post mediation Hearing Officer's fees may not be assessed against the consolidated government.
- (e) If at any stage of the proceeding, the Hearing Officer makes a determination that the Complaint is unjustified, frivolous, or patently unfounded then he or she may in his or her discretion impose a fine of up to \$500.00 against the Complainant.

Sec. 2-302. Right to Appeal and Subsequent Proceedings.

- (a) Any party adversely affected by the findings or recommendations of the Hearing Officer may obtain judicial review of such decision as provided in this Section.
- (b) An action for judicial review may be commenced by filing an application for a writ of certiorari in the Superior Court of Muscogee County within thirty (30) days after the final action on a Complaint pursuant to this ordinance. The filing of such application shall act as supersedeas.
- (c) Fines and penalties ordered by the hearing officer for violations of this ordinance shall be paid to Revenue Division of the Finance Department. If the event that such fines and penalties are not paid as required by the order of the hearing officer and no Certiorari has been filed within 30 days, then the Hearing Officer shall issue a citation ordering the violator to appear in Recorder's Court of Columbus, Georgia or face contempt charges for failure to pay the fine.

Sec. 2-303. Other Remedies.

This ordinance is not a required administrative remedy and should not be construed to limit any other remedies available under local, state, or federal law.

SECTION 2.

This ordinance shall become effective sixty (60) days after it is signed by the Mayor.

SECTION 3.

All Ordinances in conflict with this ordinance are hereby repealed.

Introduced at a regular meeting of the Council of Columbus, Georgia held on the ____ day of _____, 2021, introduced a second time at a regular meeting of said Council held on the ____ day of _____, 2021, and adopted at said meeting by the affirmative vote of _____ members of said Council.

Councilor Allen	voting	_____
Councilor Barnes	voting	_____
Councilor Crabb	voting	_____
Councilor Davis	voting	_____
Councilor Garrett	voting	_____
Councilor House	voting	_____
Councilor Huff	voting	_____
Councilor Thomas	voting	_____
Councilor Tucker	voting	_____
Councilor Woodson	voting	_____

Sandra T. Davis
Clerk of Council

B. H. "Skip" Henderson, III
Mayor