

(Published in the Morning Sun on January 15<sup>th</sup>, 2021)

ORDINANCE NO. G-1318

**AN ORDINANCE AMENDING SECTIONS 2-331 AND 2-332 OF THE PITTSBURG CITY CODE CREATING THE NON-DISCRIMINATION ORDINANCE, PROHIBITING DISCRIMINATION IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS, AND CREATING SECTIONS 2-333, 2-334, AND 2-335 TO THE PITTSBURG CITY CODE.**

**Section 1.** Whereas, the City of Pittsburg is a community that respects and actively seeks to welcome and protect all those who reside, visit, or do business in our community; and

**Section 2.** Whereas, the governing body finds that providing protection against discrimination contributes to the creation of a diverse, welcoming, and prosperous community that promotes harmony, mutual respect, and the health, safety, and welfare of the citizens of Pittsburg; and

**Section 3.** Whereas, the governing body finds that discrimination based on age, race, religion, color, sex, sexual orientation, national origin or ancestry, gender identity, disability, military status, genetic information, marital status, or familial status is wrongful discrimination and inconsistent with the community's goals and values; and

**Section 4.** Whereas, local, state, and federal laws provide protection against discrimination against protected classes of individuals in housing, employment and public accommodations, and such laws provide a complaint and enforcement process for parties who allege discrimination in violation of local, state, or federal law; and

**Section 5.** Whereas, federal law and the Kansas Human Relations Commission have included sexual orientation and gender identity as protected classes from discrimination in employment, housing, and public accommodations; and

**Section 6.** Whereas, the City of Pittsburg desires to extend the law to prohibit discrimination and retaliation based upon sexual orientation and gender identity, giving these characteristics the same protection state and federal law already consistently provide with respect to age, race, religion, color, sex, national origin or ancestry, disability, military status, genetic information, marital status, and familial status, and to provide a complaint and enforcement process to effectuate such protection.

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF PITTSBURG, KANSAS:**

**Section 1.** Section 2-331 is hereby amended to read as follows:

**2-331. – Definitions**

*Complainant* means a person who has been or is being subject to discrimination in violation of this ordinance or state and federal laws.

*Days* means calendar days. If a deadline falls on a day City hall is not open (i.e. a weekend, a holiday recognized by the City, emergency closure) the deadline will be extended to the day City hall is open.

*Employee* means any individual employed by an employer, but does not include any individual employed by such individual's parents, spouse, or child or in the domestic service of any individual. Employee also does not include an independent contractor.

*Employer* means any individual or entity (i.e. corporation, partnership, limited liability company, association, labor organization, mutual company, joint-stock company, trust, unincorporated organization) employing four or more employees, the City of Pittsburgh (including all departments, boards, agencies), and any City contractor. For purposes of this article, no religious organization or non-profit fraternal or social association/ corporation shall be considered to be an employer.

*Nonprofit fraternal or social association/corporation* means an association or corporation that meets all of the following requirements: (1) it is organized in good faith for social or fraternal purposes; (2) membership entails the payment of bona fide initiation fees or regular dues; (3) there exists a regularly established means of self-government by the members; (4) there is a regularly established means of and criteria for admitting members and for expulsion of members by the existing membership or by their duly elected or appointed delegates; and (5) it is not operated, directly or indirectly for purposes of profit for any individual or groups of individuals other than the membership as a whole.

*Place of public accommodation* shall include every establishment within the City of Pittsburgh that is open to the public and offers any product, service, or facility. The term "place of public accommodation" shall include, but not be limited to, all taverns, hotels, motels, restaurants or any place where food or beverages are sold, retail and wholesale establishments, hospitals, theaters, motion picture houses, museums, bowling alleys, golf courses, parks, and all public transportation and terminals or stations thereof.

The term "place of public accommodation" shall not, however, include: (1) a religious organization; (2) any hotel, motel, restaurant or theater operated by a nonprofit fraternal or social association/corporation that restricts its facilities and services to the members of such group and their guests; or (3) any nonprofit fraternal or social association/corporation, or bona fide civic, political, or religious organization, when the profits of such association/corporation or organization, above reasonable and necessary expenses, are solely for its benefit or mission.

*Religious organization* means a church, mosque, synagogue, temple, nondenominational ministry, interdenominational and ecumenical organization, mission organization, faith-based social agency, or other entity principally devoted to the study, practice, or advancement of religion.

*Rent* means to lease, to sublease, to let, or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

*Rental housing* means any real property, consisting of one or more dwelling units, to include rental homes, duplexes, loft units and apartment complexes within the City limits of Pittsburgh. It shall not include the actual residence occupied by a homeowner, nor any real property owned or operated by a religious organization, or nonprofit fraternal or social association/corporation.

*Respondent* means the individual or entity against whom a complaint alleging



discrimination or retaliation has been filed with the City.

*Retaliation* means personally or getting others to participate in bullying, coercing, defaming or slandering, threatening, intimidating, disciplining or firing, interfering with work assignments, wages, work tools and work space, creating a hostile work environment targeting the complainant, or harming a complainant or their family in any way for the purpose of getting them to withdraw a complaint or punishing them for filing a discrimination complaint against the respondent.

**Section 2.** Section 2-332 is hereby amended to read as follows:

## **2-332. – Human Relations Commission**

(a) *Creation; composition; terms.* There is hereby created a Human Relations Commission (HRC) for the City. It shall consist of nine members, serving without compensation. Such members shall be drawn from diverse segments of the public and to be selected for their wisdom, ability and broad perspective and not for the purpose of representing any specific group. The members of the current HRC shall continue to serve for the term for which they were appointed. Upon the expiration of the term of any member, the Governing Body shall reappoint that member or some other qualified individual to a three-year term; provided, however, that no member shall serve more than two consecutive terms. Any member may be removed by the Governing Body for failure to attend three consecutive regular meetings of such HRC.

(b) *Officers; committees; how chosen.* The HRC at each annual meeting shall elect from its membership a chairperson, vice-chairperson and a second vice-chairperson. The chairperson, vice-chairperson and second vice-chairperson shall have and perform such duties as are commonly associated with their respective titles. The officers of the HRC shall be and constitute the executive committee thereof which shall exercise such powers between its regular meetings as may be authorized by the HRC. The HRC shall be further authorized to appoint and fix the membership of standing and temporary committees as it may find expedient for the performance of its duties.

(c) *Meetings; regular and special.* The Human Relations Commission shall meet at least quarterly at such time and place as shall be fixed by the HRC by its standing rules. Special meetings shall be called by the chairperson, first or second vice-chairperson, or upon request of a majority of the members of the HRC. Such calls for special meetings shall state the purposes for such special meetings, and notice shall be given at least 24 hours before the time of the meeting so called. The calls shall be read and entered into the minutes of such special meeting, and no business shall be transacted except that stated in the call for such special meeting. The HRC shall prepare its own agenda for all meetings and establish its own rules of order and publish the same in its bylaws.

(d) *Function.* The functions of the HRC shall be:

(1) To foster, through education and persuasion, mutual understanding and respect among all persons in the City, regardless of race, color, age, sex, religion, disability, ancestry, national origin, gender identity, sexual orientation, or in housing by reason of familial status.

(2) To encourage equality of treatment for and prevent discrimination against any person on account of race, color, age, sex, religion, disability, ancestry, national origin, gender identity, sexual orientation, or in housing by reason of familial status.

(3) To receive discrimination complaints filed by individuals alleging that they have been discriminated against in employment and public accommodations due to race, color, age, sex, religion, disability, ancestry, national origin, gender identity, sexual orientation, or in housing by

reason of familial status; to refer Complainants to appropriate State or Federal agencies to file complaints, and prepare a report of complaint to be kept on file with the City clerk as a matter of public record.

(4) To cooperate with governmental and nongovernmental agencies and organizations having like or kindred function.

(e) *Powers and duties.* The powers and duties of the HRC shall be:

(1) To work together with federal, state and City agencies in developing courses of instruction, for presentation to various groups and organizations and in public and private schools, public libraries, and other suitable places, on techniques for achieving harmonious intergroup relations within the City.

(2) To enlist the cooperation of racial, religious, and ethnic groups, community organizations, labor organizations, fraternal and benevolent associations and other groups in the City, in programs and campaigns devoted to eliminating group prejudice, intolerance, bigotry, and discrimination.

(3) To study and make recommendations concerning the problems of prejudice, intolerance, bigotry, and discrimination, and the disorder occasioned thereby, in all or any fields of human relationships.

(4) To issue publications and research designed to promote good will and to minimize or eliminate prejudice, intolerance, bigotry, discrimination, and the disorder occasioned thereby.

(5) To submit an annual report to the Governing Body.

(f) *Staff.* The Governing Body may appoint an executive secretary and other necessary staff and provide compensation for such services as may be authorized in the annual City budget.

**Section 3.** Section 2-333 is hereby created to read as follows:

### **2-333. – Declaration of Policy**

(a) The right of an otherwise qualified individual to be free from discrimination because of that individual's age, race, religion, color, sex, sexual orientation, national origin or ancestry, gender identity, disability, military status, genetic information, marital status, or familial status is hereby recognized. This right shall include, but not be limited to, any of the following:

1. The right to pursue and hold employment and the benefits associated therewith without wrongful discrimination.
2. The right to the full enjoyment of any of the services, advantages, or privileges of any place of public accommodation without wrongful discrimination.
3. The right to engage in property transactions, including obtaining housing for rent or sale and credit therefor, without wrongful discrimination.
4. The right to exercise any right granted under this ordinance without retaliation. (b) To protect these rights, it is hereby declared to be the purpose of this article to extend the law to prohibit discrimination and retaliation based upon age, race, religion, color, sex,



sexual orientation, national origin or ancestry, gender identity, disability, military status, genetic information, marital status, or familial status, and to provide a local process for the acceptance, investigation, and resolution of complaints of discrimination and retaliation arising hereunder.

**Section 4.** Section 2-334 is hereby created to read as follows:

**2-334. – Unlawful Practices**

(a) **Employment.** It shall be an unlawful discriminatory practice for an employer, because of the age, race, religion, color, sex, sexual orientation, national origin or ancestry, gender identity, disability, military status, genetic information, marital status, or familial status of any individual to refuse to hire or employ such individual, to bar or discharge such individual 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, or segregation without a valid business necessity. Such complaints will be referred to the State of Kansas Human Rights Commission (KHRC), part of the Equal Employment Opportunity Commission (EEOC). To file a complaint, call 1-785-296-3206, email [khrc@ink.org](mailto:khrc@ink.org), or visit: <https://www.surveymonkey.com/r/IntakeQuestionnaire-11-2016>.

(b) **Housing.** It shall be an unlawful discriminatory practice for an individual or entity to discriminate against any individual in the terms, conditions, or privileges of sale or lease of real property or lease of rental housing, or in the provision of services or facilities in connection therewith, because of an individual's age, race, religion, color, sex, sexual orientation, national origin or ancestry, gender identity, disability, military status, genetic information, marital status, or familial status, or to discriminate against any individual in such individual's use or occupancy of rental housing because of associating with any person(s) of the above-named protected classes. Such complaints will be referred to the U.S. Department of Housing and Urban Development (HUD). To file a complaint, visit: [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/online-complaint](https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint), call the Housing Discrimination Hotline: 1 (800) 669-9777, or email [HUD-PIHRC@tnqusa.net](mailto:HUD-PIHRC@tnqusa.net).

(c) **Public Accommodation.** It shall be an unlawful discriminatory practice for the owner, operator, lessee, manager, agent, or employee of any place of public accommodation to refuse, deny, or make a distinction, directly or indirectly, in offering its goods, services, facilities, privileges, advantages, and accommodations to any individual because of an individual's age, race, religion, color, sex, sexual orientation, national origin or ancestry, gender identity, disability, military status, genetic information, marital status, or familial status. To file a complaint, contact the Civil Rights Division of the Department of Justice at 1 (202) 514-3847, or visit: <https://civilrights.justice.gov/#report-a-violation> or file a complaint with the Kansas Attorney General Consumer Protection Division: <https://ag.ks.gov/complaint-center/consumer/consumer-investigation-request>

Nothing in this article shall:

(1) prohibit an employer from requiring an employee, during the employee's hours at work,

to adhere to reasonable dress or grooming standards not prohibited by other provisions of federal, state, or local law. It will be considered wrongful discrimination to prohibit employees from wearing natural hairstyles or head coverings associated with race or religion.

- (2) prohibit a religious organization from limiting the sale, rental, or occupancy of real property which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons. Nor shall anything in this article prohibit a nonprofit fraternal or social association/corporation in fact not open to the public, which as an incident to its primary purpose or purposes provides lodgings that it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- (3) be construed to prohibit an employer from requiring its employees, as a condition of employment, to utilize the employer's established internal human resource procedure(s) to address any allegation of discrimination or retaliation in the workplace. The fact that an employer requires an employee to utilize such procedure(s) to address any allegation of discrimination or retaliation in the workplace shall not, in itself, be deemed a violation of this article. However, completion of the employer's procedures is not a pre-requisite to filing a complaint with the City, and an employee may simultaneously file a complaint with the City as provided in this ordinance.
- (4) be construed to require any entity subject to this article to make changes to any existing facility requiring a building permit, except as otherwise required by law (Americans with Disabilities Act).

**Section 5.** Section 2-335 is hereby created to read as follows:

**Sec. 2-335. – Enforcement**

- a.) **Filing a Complaint.** A person who believes they have been or is being subject to discrimination in violation of this ordinance, hereafter referred to as the Complainant, may file a written complaint with the Human Relations Commission (HRC) City Staff Member as set forth in this article.
  1. The complaint must be filed within 60 days of the alleged discriminatory act. If a pattern of repeated discriminatory practice is alleged, the Complainant must file the complaint within 180 days of the last act giving rise to the complaint.
  2. If alleged discrimination has happened to a minor child or disabled person under the care of a parent or legal guardian, the person's parent, legal guardian or attorney may submit the complaint on their behalf by completing and signing the form provided by the City.
  3. The complaint form shall state the names and contact information of the aggrieved



individual(s), the individual(s) and/or entity/entities alleged to have committed the unlawful discriminatory practice(s), a description of the alleged unlawful conduct and all other information as may be required. There shall be no fee for filing a complaint.

4. Upon receipt, the HRC City Staff member will review the complaint, and if necessary, contact the Complainant to obtain any information that is missing. For alleged discrimination that violates an existing State or Federal law, the staff member will refer the complaint to the appropriate agency and notify the Complainant and HRC of such action.
5. Within **10 days** of receiving the complaint, the HRC will review and send a copy of the complaint to the person(s) charged with unlawful discrimination, hereafter referred to as the Respondent, along with a copy of the City's non-discrimination ordinance.

This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED by the City Commission this 12<sup>th</sup> day of January, 2021.

  
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Chuck Munsell, Mayor

ATTEST:

  
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Tammy Nagel, City Clerk

