

1 The Neighborhoods, Community Services, Public Health & Safety
2 Committee offers the following Substitute to File No. 2020-244:

3
4 Introduced by Council Member Bowman and Co-Sponsored by Council
5 Members Cumber, Carlucci, Morgan, and Priestly Jackson:

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8 **ORDINANCE 2020-244**

9 AN ORDINANCE CONCERNING EQUAL OPPORTUNITY AND
10 EXPANDING THE CITY'S EQUAL RIGHTS LAWS TO
11 PROHIBIT DISCRIMINATION BASED UPON SEXUAL
12 ORIENTATION OR GENDER IDENTITY; AMENDING SECTION
13 60.105 (FUNCTIONS, POWERS AND DUTIES), *ORDINANCE*
14 *CODE*; AMENDING CHAPTER 400 (EQUAL
15 OPPORTUNITY/EQUAL ACCESS), SECTION 400.101
16 (STATEMENT OF POLICY) AND SECTION 400.301
17 (NATURE OF COMPLAINTS), *ORDINANCE CODE*, TO
18 INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY;
19 AMENDING CHAPTER 402 (EQUAL EMPLOYMENT
20 OPPORTUNITY), *ORDINANCE CODE*; AMENDING CHAPTER
21 406 (PUBLIC ACCOMMODATIONS), *ORDINANCE CODE*;
22 AMENDING CHAPTER 408 (FAIR HOUSING), *ORDINANCE*
23 *CODE*; AMENDING SECTIONS 402.209, 406.302 AND
24 408.202 TO PROVIDE FOR EXEMPTION FOR RELIGIOUS
25 ORGANZATIONS AND TO PROVIDE FOR SINGLE-SEX
26 FACILITIES AND DRESS CODES; AMENDING SECTIONS
27 402.401, 402.402, 406.403(E), AND 408.801(G),
28 *ORDINANCE CODE*, TO ELIMINATE IMPRISONMENT AS A
29 PENALTY; PROVIDING FOR INTERPRETATION;
30 PROVIDING AN EFFECTIVE DATE.

1 **BE IT ORDAINED** by the Council of the City of Jacksonville:

2 **Section 1. Amending Section 60.105 (Functions, powers and**
3 **duties), Ordinance Code.** Section 60.105 (Functions, powers and
4 duties), *Ordinance Code*, is hereby amended to read as follows:

5 **CHAPTER 60. HUMAN RIGHTS COMMISSION.**

6 **PART 1. IN GENERAL.**

7 * * *

8 **Sec. 60.105. Functions, powers and duties.**

9 The Commission shall promote and encourage fair treatment and
10 equal opportunity for all persons regardless of race, color, religion,
11 sex, sexual orientation, gender identity, national origin, age,
12 disability, marital or familial status; and shall promote mutual
13 understanding and respect among all economic, social, racial,
14 religious and ethnic groups and shall endeavor to eliminate
15 discrimination against, and antagonism between, religious, racial and
16 ethnic groups and their members. In performing its functions, the
17 Commission shall have the following powers and duties:

18 * * *

19 **Section 2. Amending Chapter 400 (Equal Opportunity/Equal**
20 **Access), Ordinance Code.** Chapter 400 (Equal Opportunity/Equal
21 Access), *Ordinance Code*, is hereby amended to read as follows:

22 **CHAPTER 400. EQUAL OPPORTUNITY/EQUAL ACCESS.**

23 **PART 1. STATEMENT OF POLICY AND GENERAL PROVISIONS.**

24 **Sec. 400.101. Statement of policy.**

25 (a) *Employment.* The Council hereby declares it to be the policy
26 of the City that personnel shall be employed, compensated, promoted,
27 transferred, or disciplined without regard to race, color, religion,
28 political affiliation, gender, sexual orientation, gender identity,
29 national origin, disability, age, marital status, or any
30 circumstances other than merit and qualification.

31 * * *

1 **PART 3. RESOLVING COMPLAINTS OF DISCRIMINATION.**

2 **Sec. 400.301. Nature of Complaints.**

3 A complaint may be filed by an employee/candidate/applicant
4 alleging discrimination based on race, color, religion, political
5 affiliation, gender, sexual orientation, gender identity, national
6 origin, disability, age, or marital status. Discrimination is defined
7 as the loss of job-l status, benefits or opportunities, or the
8 creation or existence of a hostile work environment for reasons that
9 are made unlawful by local, state, or federal law. Complainants and
10 their representatives, witnesses, and all other individuals involved
11 in the processing of internal Equal Opportunity/Equal Access
12 complaints shall be free from restraint, interference, coercion,
13 discrimination, or retaliation with respect to their participation.

14 **Section 3. Amending Chapter 402 (Equal Employment**
15 **Opportunity), Ordinance Code.** Chapter 402 (Equal Employment
16 Opportunity), *Ordinance Code*, is hereby amended to read as follows:

17 **CHAPTER 402. EQUAL EMPLOYMENT OPPORTUNITY.**

18 **PART 1. GENERAL PROVISIONS.**

19 * * *

20 **Sec. 402.102. Legislative findings.**

21 The City finds and declares that:

22 (a) The right of equal opportunity of access to employment and
23 the right of fair treatment by employers without discrimination on
24 the basis of race, color, religion, national origin, sex, sexual
25 orientation, gender identity, marital status, age and disability are
26 civil rights guaranteed by the United States Constitution and
27 implemented and enforced by federal law and by the laws of the state.

28 * * *

29 **Sec. 402.107. Definitions.**

30 In this Chapter, unless the context otherwise requires:

31 * * *

1 (g) *Discriminate, discrimination and discriminatory* include:

2 (1) A difference in treatment because of race, religion,
3 national origin, sex, sexual orientation, gender identity, or
4 marital status where the difference is not justified by business
5 necessity or is not a bona fide occupational qualification.

6 (2) Any of the unlawful employment practices hereinafter
7 enumerated.

8 (3) An unlawful separation, segregation or distinction
9 directly or indirectly against a person because of race, color,
10 religion, national origin, sex, sexual orientation, gender
11 identity, or disability.

12 * * *

13 (n) Gender identity shall mean the gender-related identity,
14 appearance, or expression of a person. Gender identity may
15 be demonstrated by a person's consistent and uniform
16 assertion of a particular gender identity, appearance or
17 expression, or by any other evidence that a person's gender
18 identity is sincerely held, provided, however, that gender
19 identity shall not be asserted for any improper, illegal
20 or criminal purpose.

21 (o)~~(n)~~ Labor organization includes:

22 * * *

23 (p)~~(o)~~ Reasonable accommodation may include:

24 * * *

25 (q)~~(p)~~ Qualified individual with a disability:

26 * * *

27 (r) Religious Organization shall mean and include churches,
28 synagogues, mosques, and schools of religious instruction
29 and non-profit institutions or organizations affiliated
30 therewith, as well as any "religious corporation,
31 association or society." The phrase "religious

1 Except as provided in Section 402.208, it is an unlawful
2 employment practice for an employment agency:

3 (a) To fail or refuse to refer for employment or otherwise to
4 discriminate against an individual because of race, color, religion,
5 sex, sexual orientation, gender identity, marital status, national
6 origin, age or disability.

7 (b) To classify or refer for employment an individual on the
8 basis of race, color, religion, sex, sexual orientation, gender
9 identity, marital status, national origin, age or disability

10 **Sec. 402.203. Labor organizations.**

11 Except as provided in Section 402.208, it is an unlawful
12 employment practice for a labor organization:

13 (a) To exclude or to expel from membership or otherwise to
14 discriminate against a member or applicant for membership because of
15 race, color, religion, sex, sexual orientation, gender identity,
16 marital status, national origin, age or disability.

17 (b) To limit, segregate or classify its membership or
18 applicants for membership or to classify or fail or refuse to refer
19 for employment an individual otherwise qualified for membership in a
20 way which would:

21 (1) Deprive an individual of employment opportunities; or

22 (2) Limit the employment opportunities or otherwise
23 adversely affect the status of an employee or of an applicant
24 for employment;

25 Because of race, color, religion, national origin, sex, sexual
26 orientation, gender identity, marital status, age or disability.

27 * * *

28 **Sec. 402.204. Training programs.**

29 Except as provided in Section 402.208, it is an unlawful
30 employment practice for an employer, labor organization or joint
31 labor-management committee controlling apprenticeship or other

1 training or retraining, including on-the-job training, programs to
2 discriminate against an individual because of race, color, religion,
3 sex, sexual orientation, gender identity, marital status, national
4 origin, age or disability in admission to or employment in a program
5 established to provide apprenticeship or other training.

6 * * *

7 **Sec. 402.206. Other discriminatory practices.**

8 It is an unlawful employment practice for an employer, labor
9 organization, employment agency or joint labor-management committee
10 controlling apprenticeship or other training or retraining, including
11 on-the-job training, programs to print or publish or cause to be
12 printed or published a notice or advertisement:

13 * * *

14 (c) Relating to admission to or employment in a program
15 established to provide apprenticeship or other training by the joint
16 labor-management committee;

17 Indicating in any of these areas a preference, limitation,
18 specification or discrimination based on race, color, religion, sex,
19 sexual orientation, gender identity, national origin, age, or
20 disability; provided, that a notice or advertisement may indicate a
21 preference, limitation, specification or discrimination based on
22 religion, sex, sexual orientation, gender identity, marital status
23 or national origin when the factor or qualification is a *bona fide*
24 occupational qualification for employment.

25 * * *

26 **Sec. 402.209. - Limitations and exemptions.**

27 (a) This Part 2 does not apply to: A religious organization,
28 as defined by this Chapter, ~~corporation, association or~~
29 ~~society~~ with respect to the employment of individuals of
30 a particular religion to perform work connected with the
31 carrying on by the ~~corporation, association or society~~

1 (a) To apply different standards of compensation or different
2 terms, conditions or privileges of employment pursuant to a *bona fide*
3 seniority or merit system or a system which measures earning by
4 quantity or quality or production or to employees who work in
5 different locations, if the differences are not the result of an
6 intention to discriminate because of race, color, religion, sex,
7 sexual orientation, gender identity, marital status, national origin,
8 age or disability.

9 (b) To give and act upon the results of a professionally
10 developed ability test if the test, its administration or action upon
11 the results is not designed, intended or used to discriminate because
12 of race, color, religion, sex, sexual orientation, gender identity,
13 marital status, national origin, age or disability.

14 * * *

15 **Section 4. Amending Chapter 406 (Public Accommodations),**
16 **Ordinance Code.** Chapter 406 (Public Accommodations), *Ordinance Code*,
17 is hereby amended to read as follows:

18 **CHAPTER 406. PUBLIC ACCOMMODATIONS.**

19 **PART 1. GENERAL PROVISIONS.**

20 * * *

21 **Sec. 406.102. Declaration of policy.**

22 The City declares it to be the policy of the City to provide,
23 within the limits of the Constitution of the United States, access
24 to public accommodations for all people within the City. The
25 availability of access to public accommodations without
26 discrimination on the basis of race, color, religion, ancestry, to
27 national origin, age, sex, sexual orientation, gender identity,
28 pregnancy, disability, marital status, or familial status is a matter
29 of concern to the people of Jacksonville and more particularly of
30 concern to the City in providing for the health, welfare, safety and
31 morals of the people of Jacksonville.

1 * * *

2 **Sec. 406.104. Definitions.**

3 In this Chapter, unless the context otherwise requires:

4 * * *

5 (g) *Discriminate, discrimination, and discriminatory* include:

6 (1) A difference in treatment because of race, color,
7 religion, ancestry, national origin, age, sex, sexual
8 orientation, gender identity, pregnancy, disability, marital
9 status, or familial status, where the difference is not
10 justified by business necessity or is not a bona fide
11 qualification.

12 (2) Any of the discriminatory practices hereinafter
13 enumerated.

14 (3) An unlawful separation, segregation or distinction
15 directly or indirectly against a person because of race, color,
16 religion, ancestry, national origin, age, sex, sexual
17 orientation, gender identity, pregnancy, disability, marital
18 status, or familial status.

19 (h) Gender identity shall mean the gender-related identity,
20 appearance, or expression of a person. Gender identity may
21 be demonstrated by a person's consistent and uniform
22 assertion of a particular gender identity, appearance or
23 expression, or by any other evidence that a person's gender
24 identity is sincerely held, provided, however, that gender
25 identity shall not be asserted for any improper, illegal
26 or criminal purpose.

27 (i)-(h) Mediation means the attempted resolution of issues raised
28 by a complaint or by the investigation of the complaint
29 through informal negotiations involving the complainant,
30 respondent, and the Commission.

31 (j)-(i) Probable Cause Panel is defined as a three- to five-

1 person panel composed of the members from the Public
2 Accommodations Subcommittee of the Commission appointed to
3 make findings related to probable cause upon the completion
4 of the investigation of a duly filed complaint.

5 (k) Religious Organization shall mean and include churches,
6 synagogues, mosques, and schools of religious instruction
7 and non-profit institutions or organizations affiliated
8 therewith, as well as any "religious corporation,
9 association or society." The phrase "religious
10 corporation, association or society" shall be interpreted
11 consistent with Section 2000e-(1) (a), United States Code.

12 (l)-(j)-Respondent means any entity whom has been charged with
13 a violation of this chapter and who meets the requirements
14 under this chapter as one who provides public
15 accommodation.

16 (m)-(k) Settlement agreement means a written agreement setting
17 forth the resolution of the issues in mediation.

18 (n) Sexual orientation shall mean an individual's actual or
19 perceived orientation as heterosexual, homosexual, or
20 bisexual.

21 **PART 2. UNLAWFUL PUBLIC ACCOMMODATIONS PRACTICES.**

22 * * *

23 **Sec. 406.201. Unlawful practice.**

24 It shall be unlawful to engage in any of the following acts
25 because of an individual's race, color, religion, ancestry, national
26 origin, age, sex, sexual orientation, gender identity, pregnancy,
27 disability, marital status, or familial status.

28 * * *

29 **PART 3. PLACES OF PUBLIC ACCOMMODATION ENUMERATED.**

30 * * *

31 **Sec. 406.302. - Limitations and exemptions.**

1 The following limitations and exemptions shall apply:

2 (a) The provision of this Chapter shall not apply to a private club
3 or other establishments not in fact open to the public, except
4 to the extent that the facilities of such establishments are
5 made available to the customers or patrons of such an
6 establishment.

7 (b) Nothing in this Chapter shall prohibit a religious
8 organization, as defined in this Chapter ~~association or~~
9 ~~society, or any nonprofit institution or organization,~~
10 ~~operating, supervised or controlled by or in conjunction with~~
11 ~~a religious organization, association or society,~~ from limiting
12 facilities and accommodations which it owns or operates for
13 other than commercial purpose to persons of the same religion,
14 or from giving preference to such persons;

15 (c) Nothing in this Chapter shall prohibit the limiting of the use
16 of kindergartens, nurseries, day care centers, theaters and
17 movie theaters to persons of a particular age group.

18 (d) Nothing herein shall prohibit a business or place of public
19 accommodation from providing single-sex restrooms, locker
20 rooms, shower facilities, bath houses, health spas,
21 dormitories, lodging facilities and similar facilities that are
22 by their nature distinctly private.

23 (e) Nothing herein shall prohibit a business or place of
24 accommodation from establishing and enforcing a dress code for
25 its employees, provided that such dress code shall not be based
26 upon sex stereotypes.

27 (f) With regard to discrimination based on sexual orientation or
28 gender identity, this Part 3 shall not apply with regard to any
29 action of, or decision made by, a religious organization as
30 defined in this Chapter.

31 **Section 5. Amending Chapter 408 (Fair Housing), Ordinance**

1 **Code.** Chapter 408 (Fair Housing), *Ordinance Code*, is hereby amended
2 to read as follows:

3 **CHAPTER 408. FAIR HOUSING.**

4 **PART 1. GENERAL PROVISIONS.**

5 * * *

6 **Sec. 408.102. Declaration of policy.**

7 The City declares it to be the policy of the City to provide,
8 within the limits of the Constitution of the United States, fair
9 housing for all people within the City. The availability of adequate
10 housing without discrimination on the basis of race, color, religion,
11 national origin, sex, sexual orientation, gender identity, handicap,
12 familial status or marital status is a matter of concern to the people
13 of Jacksonville and more particularly of concern to the City in
14 providing for the health, welfare, safety and morals of the people
15 of Jacksonville

16 * * *

17 **Sec. 408.105. Definitions.**

18 In this Chapter, unless the context otherwise requires:

19 * * *

20 (1) Gender identity shall mean the gender-related identity,
21 appearance, or expression of a person. Gender identity may be
22 demonstrated by a person's consistent and uniform assertion of a
23 particular gender identity, appearance or expression, or by any other
24 evidence that a person's gender identity is sincerely held, provided,
25 however, that gender identity shall not be asserted for any improper,
26 illegal or criminal purpose.

27 (m)~~(1)~~ *General counsel* means the General Counsel of the City
28 of Jacksonville.

29 (n)~~(m)~~ *Handicap* means a mental or physical impairment that
30 substantially limits at least one major life activity, a record of
31 such impairment, or being regarded as having such an impairment. The

1 term does not include current, illegal use of or addiction to a
2 controlled substance (as defined in Section 102 of the Controlled
3 Substances Act (21 U.S.C. 802)). In this Part, a reference to "an
4 individual with a handicap" or to "handicap" does not apply to an
5 individual because that individual is a transvestite.

6 ~~(o)(n)~~—*Housing facility* means and includes any building,
7 structure or portion thereof which is occupied as, or designed or
8 intended for occupancy as the home, living quarters or residence of
9 one or more families, and any vacant land which is offered for sale
10 or lease for the construction or location thereof of any such
11 building, structure or portion thereof.

12 ~~(p)(e)~~ *Person* includes one or more individuals, corporations,
13 partnerships, associations, labor organizations, legal
14 representatives, mutual companies, joint-stock companies, trusts,
15 unincorporated organizations, trustees, trustees in cases under 11
16 U.S.C. 101 et seq. (Bankruptcy Code), receivers and fiduciaries.

17 ~~(q)(p)~~ *Real estate broker* includes any person duly licensed as
18 a real estate broker under the laws of the state.

19 ~~(r)(q)~~—*Real estate salesperson* includes:

20 * * *

21 (s) *Religious Organization* shall mean and include churches,
22 synagogues, mosques, and schools of religious instruction and non-
23 profit institutions or organizations affiliated therewith, as well
24 as any "religious corporation, association or society." The phrase
25 "religious corporation, association or society" shall be interpreted
26 consistent with Section 2000e-(1) (a), United States Code.

27 ~~(t)(r)~~ *To rent* includes to lease, to sublease, to let and
28 otherwise to grant for a consideration the right to occupy premises
29 not owned by the occupant.

30 ~~(u)(s)~~ *Respondent* means:

31 * * *

1 furnishing appraisals of real property from taking into consideration
2 factors other than race, color, religion, sex, sexual orientation,
3 gender identity, handicap, familial status, or national origin.

4 * * *

5 **PART 4. DISCRIMINATION PROHIBITED.**

6 **Sec. 408.401. Sale or rental.**

7 (a) A person may not refuse to sell or to rent after the making
8 of a bona fide offer, refuse to negotiate for the sale or rental of,
9 or otherwise make unavailable or deny a dwelling to any person because
10 of race, color, handicap, religion, sex, sexual orientation, gender
11 identity, familial status, or national origin.

12 (b) A person may not discriminate against any person in the
13 terms, conditions, or privileges of sale or rental of a dwelling, or
14 in providing services or facilities in connection with the sale or
15 rental, because of race, color, handicap, religion, sex, sexual
16 orientation, gender identity, familial status, or national origin.

17 * * *

18 **Sec. 408.402. Publication.**

19 A person may not make, print, or publish or cause to be made,
20 printed, or published any notice, statement, or advertisement with
21 respect to the sale or rental of a dwelling that indicates any
22 preference, limitation, or discrimination based on race, color,
23 religion, sex, sexual orientation, gender identity, handicap,
24 familial status, national origin, or an intention to make such a
25 preference, limitation, or discrimination.

26 **Sec. 408.403. Falsely representing availability.**

27 A person may not represent to any person because of race, color,
28 religion, sex, sexual orientation, gender identity, handicap,
29 familial status, or national origin that a dwelling is not available
30 for inspection, sale or rental when the dwelling is available for
31 inspection, sale or rent.

1 **Sec. 402.401. Violations; penalty.**

2 A person who, knowingly and willfully:

3 * * *

4 Shall, upon conviction thereof, be punished by fine not to exceed
5 \$500 ~~or by imprisonment for not exceeding 90 days, or by both a~~
6 ~~fine and imprisonment.~~

7 **Sec. 402.402. Malicious complaints.**

8 A person who files or procures the filing of a complaint with
9 the Commission alleging one or more unlawful employment practices
10 when, at the time of filing the complaint, the person knew or
11 reasonably should have known that the complaint was false and the
12 person filed or procured the filing of the complaint maliciously or
13 with intent to disrupt the business operations of the person against
14 whom the complaint was filed shall, upon conviction thereof, be
15 punished by a fine not to exceed \$500 ~~or by imprisonment not to exceed~~
16 ~~90 days, or by both a fine and imprisonment.~~

17 * * *

18 **Section 7. Amending Chapter 406 (Public Accommodations),**
19 **Part 4 (Procedures for public accommodations complaint), Ordinance**
20 **Code.** Chapter 406 (Public Accommodations), Part 4 (Procedures for
21 public accommodations complaint), *Ordinance Code*, is hereby amended
22 to read as follows:

23 **CHAPTER 406. PUBLIC ACCOMMODATIONS**

24 * * *

25 **PART 4. PROCEDURES FOR PUBLIC ACCOMMODATIONS COMPLAINT**

26 * * *

27 **Sec. 406.403. Subpoenas.**

28 In support of the above, the following procedures shall apply:

29 * * *

30 (e) Any person who, with intent thereby to mislead the Commission
31 or the Director, makes or causes to be made any false entry or

1 statement of fact in any report, account, record or other
2 document submitted to the Commission pursuant to its subpoena
3 or other order, or shall willfully neglect or fail to make or
4 cause to be made full, true and correct entries in such reports,
5 accounts, records or other documents, or shall willfully
6 mutilate, alter, or by any other means falsify any documentary
7 evidence, may be fined by the County Court of Duval County, not
8 more than \$500 ~~or imprisoned not more than 60 days or both.~~

9 * * *

10 **Section 8. Amending Chapter 408 (Fair Housing), Part 8**
11 **(Penalties), Ordinance Code.** Chapter 408 (Fair Housing), Part 8
12 (Penalties), *Ordinance Code*, is hereby amended to read as follows:

13 **CHAPTER 408. FAIR HOUSING**

14 * * *

15 **PART 8. PENALTIES**

16 **Sec. 408.801. Violations; penalty.**

17 A person who, knowingly and willfully:

18 * * *

19 (g) ~~Shall, upon conviction thereof, be punished by a fine not to~~
20 ~~exceed \$500 or by imprisonment for not exceeding 90 days, or by~~
21 ~~both a fine and imprisonment. A conviction based upon a violation~~
22 ~~order under this Section shall be a bar to further prosecutions~~
23 ~~for alleged violations arising out of substantially the same~~
24 ~~circumstances.~~

25 * * *

26 **Section 9. Interpretation.**

27 Any ordinance or Charter provision or part of any Ordinance or
28 Charter provision in conflict with the provisions hereof is repealed
29 to the extent of the conflict. Should any part of this Ordinance
30 2020-244-E be held invalid by a court of competent jurisdiction, the
31 remainder of this Ordinance 2020-244-E shall continue in full force

1 and effect and it shall be presumed that this Ordinance 2020-244-E
2 was enacted without the invalid provision.

3 **Section 10. Effective Date.** This ordinance shall become
4 effective upon signature by the Mayor or upon becoming effective
5 without the Mayor's signature.

6
7 Form Approved:

8
9 /s/ Margaret M. Sidman

10 Office of General Counsel

11 Legislation Prepared by: Margaret M. Sidman

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