

ORDINANCE NO. 21, 1998  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
REPEALING AND REENACTING ARTICLE II OF CHAPTER 13  
OF THE CITY CODE CONCERNING DISCRIMINATION

WHEREAS, over the past three years, the City's Human Relations Commission has been studying and gathering information concerning the scope and effectiveness of the provisions set forth in Article II of Chapter 13 of the Code of the City of Fort Collins, dealing with human relations (the "Human Rights Code"); and

WHEREAS, following the presentation of suggested changes from the Human Relations Commission, the City Manager formed a 13 member Human Rights Ordinance Task Force (the "Task Force") to further study the issues surrounding the need for changes to the Human Rights Code and to seek further broad-based citizen comment and input; and

WHEREAS, the Task Force regularly met over a five month period, conducted three publicly advertised open forums where citizen comment and input was encouraged and received, and vigorously discussed, debated, and considered the scope and effectiveness of the Human Rights Code and the need for changes to the Code; and

WHEREAS, during the open forums conducted by the Task Force, many citizens came forward to express their views, experiences, thoughts, and beliefs concerning a wide array of issues related to the Human Rights Code; and

WHEREAS, based upon the comments and input provided by the Human Relations Commission, the Task Force, the many citizens who participated in the Task Force forums, the many citizens who have provided comment and input during the proceedings before this body in consideration of this ordinance, and the comments and input from City staff, it is apparent that the Human Rights Code should be revised, in both its substantive and procedural provisions, so as to clarify its meaning, to better encourage conciliation while still ensuring enforcement, and to better protect the dignity, worth, and rights of all human beings;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes the following findings of fact: (a) that the City has a compelling interest in eradicating and preventing discrimination based on race, color, religion, national origin, gender, marital status, age, disability, familial status, and public assistance status, and in ensuring equal opportunity in employment, housing, and public accommodations; (b) that this compelling interest in adopting the provisions set forth in Section 2 of this ordinance outweighs any burden placed upon the rights of the persons regulated by said provisions; (c) that the provisions set forth in Section 2 of this ordinance represent the least restrictive means to achieving the City's objectives; and (d) that nothing in such provisions is intended to establish or require affirmative action, quotas, or preferences of any kind.

Section 2. That Article II of Chapter 13 of the Code of the City of Fort Collins is hereby repealed and reenacted as follows:

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### CHAPTER 13

#### HUMAN RIGHTS

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#### ARTICLE I. IN GENERAL

Secs. 13-1 – 13-14. Reserved.

#### ARTICLE II. DISCRIMINATION

##### Sec. 13-15. Purpose

The City of Fort Collins values the dignity and worth of all human beings and is committed to promoting justice, equity and inclusivity by respecting cultural and individual diversity and fostering mutual understanding among all people regardless of race, color, religion, national origin, gender, marital status, age, disability, familial status, and public assistance status. It is the intent of the City that all people have an equal opportunity to participate fully in the life of the City and that discriminatory barriers to equal participation in employment, housing and public accommodations be removed. The City has a compelling interest in eradicating and preventing discrimination based on race, color, religion, national origin, gender, marital status, age, disability, familial status, and public assistance status, and in ensuring equal opportunity in employment, housing and public accommodations. This compelling interest in adopting these code provisions outweighs any burden placed upon the rights of the persons regulated by said provisions. These code provisions represent the least restrictive means to achieving the City's objectives. Nothing in this chapter is intended or shall be interpreted to establish or require affirmative action, quotas or preferences of any kind.

##### Sec. 13-16. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

*Age* shall mean the chronological age of any individual of at least forty (40) years.

*City Manager* shall mean the chief administrative official of the city, including any person appointed or designated by the City Manager to carry out any or all of the duties, obligations, rights and powers appointed to the City Manager under this Article.

*Complainant* shall mean the person filing a formal charge or accusation of violation of this Article.

*Disability* shall mean a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such impairment. The term excludes the following: current use of alcohol or drugs or other disabilities that prevent a person from acquiring, renting, or maintaining property, that would constitute a direct threat to the property or safety of others, or that would prevent performance of job responsibilities; or conditions excluded from the federal definition of disability pursuant to the Americans With Disabilities Act, 42 U.S.C. §12211. Except as provided above, *physical or mental impairment* shall mean:

- (a) any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or
- (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

*Discriminate, discriminate on the basis of, and for the purpose of discrimination on the basis of* shall mean under the given circumstances, a person intentionally makes a limitation, differentiation, or specification as to another because of a prohibited basis as set forth in this article.

*Employer* shall mean any person employing within the City of Fort Collins fifteen or more persons for each working day in each of twenty or more calendar weeks in the current or preceding calendar year.

*Employment* shall mean any character of service rendered or to be rendered for wages, salary, commission or other form of remuneration, and to use or engage any character of service rendered or to be rendered for wages, salary, commission or other form of remuneration.

*Employment agency* shall mean any person undertaking, with or without compensation, to procure employees or opportunities to work for any person or holding itself out as equipped to do so.

*Familial status* shall mean the relationship of one or more individuals under 18 years of age who reside with a parent, another person with care and legal custody of that individual, a person who has been given care and custody of that individual by a state or local governmental agency that is responsible for the welfare of children, or the designee of that parent or other person with legal custody of any individual under 18 years of age by written consent of the parent or designated custodian. The protections afforded by this chapter against discrimination on the basis of familial status shall also apply to any individual who is pregnant, or who is in the process of securing legal custody of any individual under 18 years of age by a state or local governmental agency responsible for the welfare of children.

*Gender* shall mean male or female. Discrimination on the basis of gender shall include unequal treatment on the basis of pregnancy or childbirth.

*Harassment* shall mean unwelcome physical or verbal conduct concerning race, color, religion, national origin, marital status, age, gender, or disability which unreasonably interferes with the employee's job performance or creates an intimidating, hostile or offensive working environment.

*Hearing Officer* shall mean an impartial attorney licensed to practice law in the State of Colorado appointed by the City Manager.

*Labor organization* shall mean any organization which exists for the purpose in whole or in part of collective bargaining, or of dealing with employers concerning grievances, terms, or conditions of employment, or of other mutual aid or protection in connection with employment.

*Person* shall mean the City of Fort Collins or any individual, group, association, corporation, joint apprenticeship, committee, joint stock company, labor union, legal representative, mutual company, partnership, receiver, trustee or unincorporated organization or other legal or commercial entity, excluding only agencies, school districts, colleges, universities, and political subdivisions of the State of Colorado and agencies of the United States of America.

*Place of public accommodations* shall mean any place of business engaged in any sales to the general public and any place that offers services, facilities, privileges or advantages to the general public or that receives financial support through solicitation of the general public or through governmental subsidy of any kind.

*Public assistance status* shall mean the actual or perceived fact that a person is receiving or has received local, state, or federal government assistance in any form, including, but not limited to money, food, or housing.

*Real estate transaction* shall mean the sale, exchange, rental or lease of any real property or mobile home and also includes offering or listing of any real property or mobile home for sale, exchange, rental or lease.

*Religious organization or institution* shall mean any organization or institution affiliated with a church, synagogue, congregation, parish, brotherhood, religious corporation or any religious society engaging in the works of education, benevolence, charity or missions.

*Respondent* shall mean the person being formally charged with a violation of this Article.

*Sexual harassment* shall mean unwelcome physical or verbal conduct of a sexual nature when:

- (a) submission to such conduct is explicitly or implicitly a term or condition of employment,
- (b) submission to or rejection of such conduct is used as the basis for an employment decision, or
- (b) such conduct unreasonably interferes with the employee's job performance or creates an intimidating, hostile or offensive working environment.

**Sec. 13-17. Discriminatory employment practices prohibited.**

(a) Except where based on a bona fide occupational qualification, it shall be a discriminatory employment practice and a violation of this Section for:

- (1) Any employer to discriminate against any person on the basis of race, color, religion, national origin, gender, marital status, age, or disability, with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment;
- (2) Any employment agency to discriminate against any person on the basis of race, color, religion, national origin, gender, marital status, age, or disability, relating to employment or prospective employment;
- (3) Any labor organization to discriminate against any person on the basis of race, color, religion, national origin, gender, marital status, age, or disability, with respect to membership, prospective employment, employment, or training;
- (4) Any person to use a threat communicated either by physical, oral or written means of harm or injury to another person, reputation or property to coerce such a person to not accept or discontinue employment on the basis of race, color, religion, national origin, gender, marital status, age, or disability;

- (5) Any person seeking employment to publish or cause to be published any advertisement for employment with specification or limitation based upon race, color, religion, national origin, gender, marital status, age, or disability;
  - (6) Any employer to discriminate against any person by engaging in harassment or sexual harassment.
  - (7) Any employer, employment agency or labor organization to discriminate against an individual on the basis of the race, color, religion, national origin, gender, marital status, age, or disability of any other person with whom the individual associates or to whom the individual is related.
- (b) Except where based on a bona fide occupational qualification, it shall be a discriminatory employment practice for any employer, employment agency or labor organization prior to employment or admission to membership to:
- (1) Elicit any information for the purpose of discrimination on the basis of race, color, religion, national origin, gender, marital status, age, or disability against any applicant for employment or membership;
  - (2) Make or keep a record for the purpose of discrimination on the basis of race, color, religion, national origin, gender, marital status, age, or disability against any applicant for employment or membership;
  - (3) Use any form of application for employment or personnel or membership blank seeking to elicit information for the purpose of discrimination on the basis of race, color, religion, national origin, gender, marital status, age, or disability;
  - (4) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation or specification for the purpose of discrimination on the basis of race, color, religion, national origin, gender, marital status, age, or disability;
  - (5) Establish, announce or follow a policy of denying or limiting through a quota system or otherwise employment or membership opportunities of any group for the purpose of discrimination on the basis of race, color, religion, national origin, gender, marital status, age, or disability;
  - (6) Utilize in the recruitment or hiring of individuals any employment agency, placement service, training school or center, labor organization or any other employee referring service when such person knows that such entity intends to discriminate on the basis of race, color, religion, national origin, gender, marital status, age, or disability;
  - (7) Utilize in the recruitment, hiring, upgrading or promotion of any person any test which discriminates on the basis of race, color, religion, national origin, gender, marital status, age, or disability.
- (c) The provisions of this Section shall not apply to prohibit:
- (1) A religious organization or institution from restricting employment opportunities and advertising such restrictions so as to give preference to members of its own religion or denomination or to make such selection as is reasonably calculated by such organization or institution to promote the religious principles for which it is established or maintained.
  - (2) Different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority, merit, or benefit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate on the basis of race, color, religion, national origin, gender, marital status, age, or disability.

(3) With respect to marital status, discrimination in fringe benefits, insurance coverage or any other term, condition or privilege of employment where the employee seeks coverage for an individual on the basis that the individual is his or her spousal equivalent.

(4) Discrimination with respect to a disability, if the disabled person's employment would pose a direct threat to the health or safety of such person or others; if there is no reasonable accommodation that the employer can make with regard to the disability that would allow the person to perform the essential functions of the job; or if the provision of an accommodation necessary to allow the person to perform the essential functions of the job would impose an undue hardship upon the employer. The terms "direct threat", "reasonable accommodation", "essential functions", and "undue hardship" shall be defined as set forth in the Americans With Disabilities Act, 42 U.S.C. §12101 et seq., and the regulations adopted pursuant thereto.

(5) With respect to discrimination based on age, the compelled retirement of any employee who is sixty-five (65) years of age or older and who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policy-making position if such employee is entitled to an immediate, nonforfeitable, annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee and if such plan equals, in the aggregate, at least forty-four thousand dollars (\$44,000).

(6) A quota system established by court order as a remedial measure.

(7) Programs which provide opportunities for persons who have been the traditional targets of discrimination.

(8) The use of a form or the making of a record of inquiry for the purpose of required governmental reporting.

(9) A person from giving or being required to give the person's name.

(10) An employer from discriminating with respect to marital status under circumstances where (I) one spouse directly or indirectly would exercise supervisory, appointment, or dismissal authority or disciplinary action over the other spouse; (ii) one spouse would audit, verify, receive, or be entrusted with moneys received or handled by the other spouse; or (iii) one spouse has access to the employer's confidential information, including payroll and personnel records.

**Sec. 13-18. Discriminatory housing practices prohibited.**

(a) It shall be a discriminatory housing practice and a violation of this Section for any person to discriminate on the basis of race, color, religion, national origin, gender, marital status, disability, familial status, or public assistance status:

(1) By refusing to negotiate for and/or engage in a real estate transaction with another person;

(2) By providing unequal terms, conditions, privileges and services to another person in regard to real estate ownership, rental or leasing;

(3) With respect to the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;

(4) By refusing to receive from or failing to transmit to another person a bona fide offer to engage in a real estate transaction;

(5) By representing to another person that any real property is not available for inspection or for a real estate transaction when in fact it is available;

- (6) By failing, in the ordinary course of business, to bring a property listing to another person's attention or by refusing to permit him to inspect real property under reasonable conditions.
  - (7) By publishing or advertising, directly or indirectly, an intent to make a limitation or specification in a real estate transaction;
  - (8) By using a form of application for a real estate transaction, or by making a record of inquiry in connection with a real estate transaction, for the purpose of making a limitation or specification.
  - (9) By offering, soliciting, accepting, using or retaining a listing of real property, including mobile homes, when the person knows that the owner or person in control of said property intends to discriminate against another in a real estate transaction, or in the furnishing of facilities or services in connection therewith.
  - (10) By inducing or attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, gender, marital status, disability, familial status, or public assistance status.
  - (11) By using a threat communicated either by physical, oral or written means of harm or injury to another person, reputation or property to coerce such person to not buy, rent or lease, or to discontinue ownership, rental or leasing real estate.
- (b) A person or a representative of such person to whom application is made for financial assistance in connection with a real estate transaction, or for the construction, rehabilitation, repair, maintenance or improvement of real property, shall not:
- (1) Discriminate against the applicant on the basis of race, color, religion, national origin, gender, marital status, disability, familial status, or public assistance status;
  - (2) Use a form of application for financial assistance or make or keep a record of inquiry in connection with applications for financial assistance, for the purpose of discrimination on the basis of race, color, religion, national origin, gender, marital status, disability, familial status, or public assistance status. It shall not be a discriminatory practice to have programs which provide opportunities for persons who have been the traditional targets of discrimination or to use a form or make a record of inquiry as above described for the purpose of required governmental reporting. This subsection shall not be construed so as to prohibit a person giving or being required to give the person's name.
- (c) No person shall discriminate against an individual on the basis of the race, color, religion, national origin, gender, marital status, disability, familial status, or public assistance status of any other person with whom the individual associates or to whom the individual is related.
- (d) The following exceptions shall apply to the provisions of this Section:
- (1) This Section shall not apply to multiple-unit dwellings of not more than four (4) dwelling units where at least one (1) of the units is owner-occupied, nor to the renting of rooms in an individual dwelling unit occupied by the lessor as his or her residence.
  - (2) A religious organization or institution may restrict its facilities or housing which are operated in connection with its religious activities and may advertise such restrictions so as to give preference to members of its own religion or denomination or to make such selection as is reasonably calculated by such organization or institution to promote the religious principles for which it is established or maintained.
  - (3) The prohibition against discrimination on the basis of public assistance status shall not forbid:

