

ORDINANCE NO. 022 - 2020

AN ORDINANCE AMENDING SECTION 2-32 AND SECTION 2-33 OF THE CODE OF ORDINANCES TO REPLACE THE TERM "INDIVIDUAL" WITH "PERSON" TO CONFORM TO THE DEFINITIONS SET OUT IN KRS 344.010.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 2-32 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 2-32. - Procedures.

(1) The commission shall follow the same procedures as the Kentucky Commission on Human Rights as set forth in KRS 344.200(6), pending final determination of proceedings hereunder; 344.230(3), (4); 344.250(1), (6), (7); 344.260(1), (3), (4); 344.385; 344.600 except as it relates to actions taken by the attorney general of Kentucky; 344.605; 344.610; 344.615; 344.620; 344.625; 344.630; 344.635; 344.640(1), (3)—(7); 344.645; 344.670; and 344.675(1), (3), (9) as they are in effect on July 15, 1998. In addition, the commission shall follow the procedures set out in subsection (2) hereof.

(2) Unless otherwise required by law, the following shall apply to complaints filed with the commission:

(a) A person claiming to be aggrieved by an unlawful practice, or a member of the commission, may file with the commission a verified complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the commission to identify the persons charged, hereinafter "the respondent." The complaint must be filed within one hundred eighty (180) days after the alleged unlawful practice occurs.

(b) The commission shall make a prompt and full investigation of each complaint, unless a voluntary settlement agreement is entered into before a determination is reached.

(c) If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint.

(d) If it is determined, after investigation, that there is probable cause to believe the respondent has engaged in an unlawful practice, the commission shall notify the parties of such determination and endeavor to eliminate the alleged unlawful practice by conference, conciliation, and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the commission of unlawful discriminatory practices in the future and make such further provisions as may be agreed upon between the commission or its staff and the respondent.

(e) In any case of failure to eliminate the alleged unlawful practice by means of conference, conciliation and persuasion, the commission shall hold a public hearing to determine whether or not an unlawful practice has been committed. The commission shall serve upon the respondent a statement of the charges made in the complaint and a notice of the time and place of the hearing. The hearing shall be held not less than ten (10) days after the service of the statement of charges. The respondent shall have the right to file an answer, to appear at the hearing in person or to be represented by an attorney, and to examine and cross-examine witnesses.

(f) If the commission determines that the respondent has not engaged in an unlawful practice, the commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint.

(g) If the commission determines that the respondent has engaged in an unlawful practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the unlawful practice and to take such remedial and affirmative action as in the judgment of the commission will carry out the purposes of this article.

Section 2 – That Section 2-33 of the Code of Ordinances be and hereby is created and enacted to read as follows:

Sec. 2-33. – Discrimination due to sexual orientation or gender identity.

- (1) It is the policy of the Lexington Fayette Urban County Government to safeguard all persons within Fayette County from discrimination in employment, public accommodation, and housing on the basis of sexual orientation or gender identity, as well as from discrimination on the basis of race, color, religion, national origin, sex, disability, and age forty and over.
- (2) For purposes of this section, the provisions of KRS 344.010 (1), (5) through (13) and (16), 344.030 (2) through (5), 344.040, 344.045, 344.050, 344.060, 344.070, 344.080, 344.100, 344.110, 344.120, 344.130, 344.140, 344.145, 344.360(1) through (8), 344.365(1) through (4), 344.367, 344.370(1), (2) and (4), 344.375, 344.380, 344.400 and 344.680, as they existed on July 15, 1998, are adopted and shall apply to prohibit discrimination on the basis of sexual orientation or gender identity within Fayette County.
- (3) The commission shall have jurisdiction to receive, investigate, conciliate, hold hearings and issue orders relating to complaints filed alleging discrimination in employment, public accommodation or housing based on the sexual orientation or gender identity of the complaining party. The commission is authorized to use the powers and procedures listed in sections 2-31 and 2-32 to carry out the purposes of this section, except that KRS 344.385, 344.635 and 344.670 shall not apply to the enforcement of this section.
- (4) For purposes of this section, "sexual orientation" shall mean a person's actual or imputed heterosexuality, homosexuality, or bisexuality.
- (5) For purposes of this section, "gender identity" shall mean:
 - (a) Having a gender identity as a result of a sex change surgery; or
 - (b) Manifesting, for reasons other than dress, an identity not traditionally associated with one's biological maleness or femaleness.
- (6) Nothing in this section shall be construed to prevent an employer from:
 - (a) Enforcing an employee dress policy which policy may include restricting employees from dress associated with the other gender; or
 - (b) Designating appropriate gender specific restroom or shower facilities.
- (7) The provisions of this section shall not apply to a religious institution or to an organization operated for charitable or educational purposes, which is operated, supervised, or controlled by a religious corporation, association or society except that when such an institution or organization receives a majority of its annual funding from any federal, state, local or other government body or agency or any combination thereof, it shall not be entitled to this exemption.

Section 3 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 5, 2020



MAYOR

ATTEST:

A handwritten signature in black ink, appearing to be 'M. L. L.', written over a horizontal line.

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

0221-20:MJG:X:\CASES\HR\20-LE0002\LEG\00679811.DOCX
Published: March 12, 2020 -1t