

**ORDINANCE**

ORDINANCE NO. 0-65-  
2012

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KNOXVILLE AMENDING CHAPTER 15, ARTICLE II, §§ 15-51, 15-57, 15-58, AND 15-63 OF THE KNOXVILLE CITY CODE RELATING TO THE NON-DISCRIMINATION POLICY FOR THE HIRING AND EMPLOYMENT PRACTICES OF CITY OF KNOXVILLE EMPLOYEES.

ORDINANCE NO: 0-65-2012

REQUESTED BY: Mayor Rogero

PREPARED BY: Law

APPROVED ON 1<sup>ST</sup>

READING: 04-17-2012

APPROVED ON 2<sup>ND</sup>

READING: 05-02-2012

APPROVED AS AN EMERGENCY MEASURE: \_\_\_\_\_

MINUTE BOOK: 76 PAGE \_\_\_\_\_

**WHEREAS**, it is readily apparent that establishing, communicating, complying with, and enforcing a non-discrimination policy for all City of Knoxville employees and all candidates for employment within the City of Knoxville is essential for maintaining public trust in government and ensuring the proper and equitable performance of government; and

**WHEREAS**, the City of Knoxville’s Code of Ordinances currently omits discrimination protection for any individual’s sexual orientation, ethnic origin, gender identity, and for qualified individuals with a disability; and

**WHEREAS**, prohibiting sexual orientation, ethnic origin, gender identity, and disability discrimination in the City of Knoxville’s employment practices will produce a

more competitive and capable workforce and help maintain equality for all employees and all candidates for employment within the City of Knoxville; and,

**WHEREAS**, the Council of the City of Knoxville has determined that it is in the public interest and welfare of the City of Knoxville that Chapter 15, Article II of the Knoxville City Code be amended to prohibit discrimination against qualified individuals on the basis of sexual orientation, ethnic origin, gender identity, and disability in the employment practices of the City of Knoxville; and,

**WHEREAS**, it is the intention of the Council of the City of Knoxville to afford to all persons identified within this ordinance freedom from discrimination in employment practices to the same extent as other protected classifications under federal and state law.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KNOXVILLE:**

**SECTION 1:** Chapter 15, Article II of the Knoxville City Code is hereby amended by deleting § 15-51(a) and by adding the following as a new § 15-51(a):

- (a) The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Employee* means an individual employed by the city, except that the term "employee" shall not include any person elected to public office in the city government by the qualified voters, or any person chosen by such elected official to be on the elected official's personal staff, or an appointee on the policy-making level or an immediate adviser with respect to the exercise of the legal powers of the office. This exemption does not include other employees of the city or employees subject to civil service laws of the city.

*Disability* means, with respect to an individual, (a) a physical or mental impairment that substantially limits one or more major life activities, as defined by the Americans with Disabilities Act (hereinafter referred to as "ADA"), of such

individual; (b) a record of such an impairment; or (c) being regarded as having such an impairment as set forth in the ADA.

*Qualified Individual* means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. It shall be within the City's judgment as to what functions of a particular job are essential.

*Religion* includes all aspects of religious observance and practice, as well as belief, unless the city demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practices without undue hardship on the conduct of the city's business.

*Sexual Orientation* means actual or perceived homosexuality, heterosexuality, or bisexuality.

*Ethnic origin* means an individual's actual or perceived heritage and common ancestry or shared historical past, as well as identifiable physical, cultural, or linguistic characteristics.

*Gender identity* means the actual or perceived gender-related identity, appearance, or mannerisms, or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

**SECTION 2:** Chapter 15, Article II of the Knoxville City Code is hereby amended by deleting § 15-57 and by adding the following as a new § 15-57:

It shall be an unlawful employment practice for the City of Knoxville to discriminate against a qualified individual on the basis of non-merit factors such as race, ethnic origin, color, national origin, gender, gender identity, sexual orientation, age except as otherwise specifically provided in this part, religion, creed, or disability in admission to, access to, or operations of its programs, services, or activities. Discrimination against any qualified individual in recruitment, examination, appointment, training, promotion, demotion, retention, discipline, or any other employment practices because of non-merit factors shall be prohibited.

**SECTION 3:** Chapter 15, Article II of the Knoxville City Code is hereby amended by deleting § 15-58 and by adding the following as a new § 15-58:

It shall be an unlawful employment practice in any apprentice training program, employee retraining program, or on-the-job training program to discriminate against any qualified individual on the basis of race, ethnic origin, color, national

origin, gender, gender identity, sexual orientation, age except as otherwise specifically provided in this part, religion, creed, or disability.

**SECTION 4:** Chapter 15, Article II of the Knoxville City Code is hereby amended by deleting § 15-63 and by adding the following as a new §15-63:

Nothing in this division shall be interpreted to require the city to grant preferential treatment to any qualified individual or to any group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, ethnic origin, color, national origin, gender, gender identity, sexual orientation, age, religion, creed, or disability employed by the city in comparison with the total number or percentage of persons of such race, ethnic origin, color, national origin, gender, gender identity, sexual orientation, age, religion, creed, or disability.

**SECTION 5:** The Ordinance shall take effect from and after its passage, the public welfare requiring it.

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Presiding Officer of the Council

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City Recorder

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