

Offered by Councilor Chuck Turner

CITY OF BOSTON



IN THE YEAR TWO THOUSAND AND TWO

**AN ORDINANCE REGARDING DISCRIMINATION
BASED ON GENDER IDENTITY OR EXPRESSION**

WHEREAS, The City of Boston seeks to protect its citizens and visitors in the enjoyment of their civil rights by ensuring that everyone is free from discrimination and by promoting mutual understanding and respect among all who reside, visit, and work within the city; and

WHEREAS, Discrimination, prejudice, intolerance, and bigotry directly and profoundly threaten individual rights and freedoms; and

WHEREAS, The City of Boston has adopted ordinances to protect the civil rights of those who live, visit, and work within the City which include, but are not limited to, a prohibition of discrimination based on sex; and

WHEREAS, Despite the protections currently afforded for a person's sex, denial of civil rights based on gender identity or expression continues to occur typically due to the differences traditionally associated with sex at birth; and

WHEREAS, Gender-based discrimination has led to compromises in the most basic needs through loss of employment or housing and refusal of services in places of public accommodation; and victims of gender-based discrimination are routinely treated with hostility and embarrassed by the behaviors of the aggressors; and

WHEREAS, The City of Boston seeks to eradicate discrimination based on gender-related identity, expression, and behavior. **THEREFORE**,

Be it ordained by the City Council of Boston, as follows:

SECTION 1.

CBC Chapter V, Section 5-5.36 is hereby amended to add "gender identity or expression" as follows:

"No Officer of the City shall deny to any person access to opportunity, including without limitation employment, educational, and recreational opportunity, solely by reason of sex or

gender identity or expression. It shall be the policy of the City to afford to every person equal access to opportunity, including without limitation employment, educational and recreational opportunity."

SECTION 2.

CBC Chapter VI, Section 6-8.4(a) is hereby amended to add "gender identity or expression" as follows:

"Not to discriminate against any individual or group seeking a mortgage, commercial, consumer, home improvement, or community development loan in the fixing of the amount, interest rate, duration, down payment or other terms or conditions of such loan, because of race, color, religion, sex, gender identity or expression, or national origin ... "

SECTION 3.

CBC Chapter X is hereby amended as follows:

CBC Section 10-3.1 is amended to add "gender identity or expression" as follows:

" ... regardless of his/her race, color, religious creed, marital status, military status, handicap, children, national origin, sex, gender identity or expression, age, ancestry, sexual preference or source of income ... "

CBC Section 10-3.3(a)(1) is amended to add "gender identity or expression" as follows:

" ... discrimination against either an individual or a group is based on race, color, religious, creed, marital status, handicap, military status, children, national origin, sex, gender identity or expression, age, ancestry, sexual preference or source of income."

CBC Section 10-3.3(d) is amended to add "gender identity or expression" as follows:

" ... discrimination in housing because of race, color, religious, creed, marital status, military status, children, handicap, national origin, sex, gender identity or expression, age, ancestry, sexual preference or source of income."

SECTION 4.

CBC Chapter XII is hereby amended as follows:

CBC Section 12-9.1 is amended to add "gender identity or expression" as follows:

"It is clear that behavior which denies equal treatment to any of our citizens as a result of their religious creed, race, color, sex, gender identity or expression, age, disability, national origin, ex-offender status, prior psychiatric treatment, sexual orientation, military status, marital status or parental status ... "

CBC Section 12-9.2 is amended to add the following definition:

"Gender identity or expression" shall mean and include a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression whether or not that gender identity, gender-related self image, gender-related appearance, or gender-related expression is different from that traditionally associated with a person's sex at birth.

CBC Section 12-9.3, First Paragraph, is amended to add "gender identity or expression" as follows:

" ... otherwise discriminate against any person in the terms, conditions, or privileges of employment, including compensation, because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, parental status, ex-offender status, prior psychiatric treatment, military status or source of income ... "

CBC Section 12-9.3, Second Paragraph, is amended to add "gender identity or expression" as follows:

" ... otherwise discriminate against any person because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, parental status, ex-offender status, prior psychiatric treatment, military status or source of income of such person."

CBC Section 12-9.4 is amended to add "gender identity or expression" as follows:

" ... discriminate otherwise against any individual, absent a bona fide occupational reason or other reasonable cause, because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, sexual orientation, marital status, parental status, ex-offender status, prior psychiatric treatment, military status or source of income of such individuals."

CBC Section 12-9.5, First Paragraph, is amended to add "gender identity or expression" as follows:

" ... directly or indirectly to discriminate in the granting, reporting, approval or extension of any form of loan or credit to any person because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, parental status, ex-offender status, prior psychiatric treatment, military status or source of income of such person."

CBC Section 12-9.5, Second Paragraph, is amended to add "gender identity or expression" as follows:

" ... discriminate in the terms of bonding any persons because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, parental status, prior psychiatric treatment, military status or source of income of such individual."

CBC Section 12-9.5, Third Paragraph, is amended to add "gender identity or expression" as follows:

" ... discriminate in the terms of insuring any individual because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, parental status, prior psychiatric treatment, military status, ex-offender status or source of income of such person ... "

CBC Section 12-9.6 is amended to add "gender identity or expression" as follows:

"It shall be unlawful practice and thereby deemed a violation of this Chapter for any educational facility directly or indirectly to fail or refuse to admit, or to curtail or terminate admission to, or to discriminate in the terms or conditions of educational services, opportunities, and curriculum offered to any person, absent a showing of reasonable cause as to why such discrimination may be warranted because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin, ancestry, sexual orientation, marital status, prior psychiatric treatment, military status, parental status, ex-offender status or source of income of such person.

The following practices shall be exempt from the operation of this section: the selection of students by a religious educational facility that is limited exclusively or gives preference to members of such religion; the establishment or maintenance by an educational facility of a school or program limited to the members of only one sex or otherwise segregated by sex, consistent however, with Federal and State statutes, the establishment by an education facility of minimum or maximum age requirements for any educational program; and the establishment by an educational facility of special programs designed to assist or provide special training for the disabled, the elderly, individuals who do not speak English, or the economically impoverished."

CBC Section 12-9.7 is amended to add "gender identity or expression" and to incorporate an exception as follows:

"It shall be an unlawful practice and thereby deemed a violation of this Chapter for any person that owns, leases, rents, operates, manages, or in any manner controls a public accommodation directly or indirectly, or who provides a public service, to withhold, deny, curtail or in any manner limit or discriminate with respect to the full use of such public accommodation or service because of the race, color, sex, gender identity or expression, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, parental status, prior psychiatric treatment, military status, ex-offender status or source of income of such individual, unless such public accommodation or service specifically designated for the exclusive use of the elderly or disabled, provided, however, nothing contained herein shall permit the use of restrooms, baths, showers, dressing rooms, or other private accommodations which are separated by sex to be used

by the opposite sex, except it shall be an unlawful and discriminatory practice to prevent or prohibit the use of restrooms, baths, showers, dressing rooms, or other private accommodations based on the gender identity publicly and exclusively expressed or asserted by the person seeking to use such restrooms, baths, showers, dressing rooms, or other private accommodations."

SECTION 5.

CBC Chapter XV, Section 15-10.1 is hereby amended to add "gender identity or expression" as follows:

"Affirmative action requires more than vigilance in the elimination of discriminatory barriers to employment on the grounds of race, color, religion, creed, ancestry, national origin, age sex, gender identity or expression, sexual orientation and handicap."

SECTION 6.

CBC Chapter XXIV, Section 2(l)(5) is hereby amended to add "gender identity or expression" as follows:

" ... nondiscriminatory job placement with respect to race, color, religion, national origin, sex, gender identity or expression, sexual orientation, age, marital status, discharge from the military service or handicap unrelated to job ability ... "

SECTION 7.

The provisions of these sections shall be effective immediately upon passage.

INDEX OF AMENDED SECTIONS FROM CBC

CHAPTER V -- ADMINISTRATION

CBC 5-5 -- Boards, Departments: Officers, Subordinates and Employees

5-5.36 Equal Opportunity Policy

CHAPTER VI -- GENERAL SERVICES

CBC 6-8 -- Municipal Depositories

6-8.4 Pledge

CHAPTER X -- HOUSING SERVICES

CBC 10-3 -- Boston Fair Housing Commission

10-3.1 Policy of the City of Boston

10-3.3 Function; Powers and Duties of the Commission

CHAPTER XII -- PUBLIC HEALTH AND WELFARE

CBC 12-9 -- Human Rights

12-9.1 Policy

12-9.2 Definitions

12-9.3 Discriminatory Practices Regarding Employment

12-9.4 Discriminatory Practices Regarding Labor Organizations

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12-9.6 Discriminatory Practices Regarding Education

12-9.7 Discriminatory Practices Regarding Public Accommodations and Services

CHAPTER XV -- DIVISIONS OF THE MAYOR'S OFFICE

CBC 15-10 -- Creating the Position of Municipal Affirmative Action Officer

15-10.1 Declaration of Policy

CHAPTER XXIV -- BOSTON JOBS AND LIVING WAGE ORDINANCE

CBC 24-2-- Definitions