



Text File

Introduced: 2/25/2019

Bill No: 2019-1426, **Version:** 1

Committee: Committee on Human Resources

Status: Passed Finally

Ordinance amending and supplementing the Pittsburgh City Code, Title Six Conduct, Article V Discrimination, Chapter 659 Unlawful Practices, Section §659.02 Unlawful Employment Practices by adding language to prohibit employment discrimination based on pregnancy, childbirth, or related medical conditions and events.

WHEREAS, pregnant employees and employees seeking to become pregnant are and have historically been subject to workplace discrimination, including, but not limited to decreased hours, termination of employment, and loss of health insurance coverage, which can affect the health of their pregnancy; and,

WHEREAS, during the gestation period, pregnant individuals may experience symptoms and related medical conditions, such as nausea, morning sickness, dehydration, increased appetite, swelling of extremities, increased body temperature, and other related symptoms; and,

WHEREAS, prior to conception and the gestation period, individuals seeking to become pregnant and their partners can elect to undergo In Vitro Fertilization or other similar procedures and experience infertility or other conditions; and,

WHEREAS, conditions related to pregnancy can also occur after gestation and after childbirth to individuals and their partners. These can include, but are not limited to post-partum depression, miscarriage, lactation, recovery from childbirth, or termination of pregnancy; and,

WHEREAS, before, during, and after the gestation period and after childbirth, individuals and their partners may be required to attend or undergo appointments, procedures, tests, and other related events; and,

WHEREAS, partners, which are persons of any gender with whom a pregnant person or a person with a related medical condition has relationship of mutual emotion and/or physical support, may need to emotionally and physically support their pregnant partner, their partner who is seeking to become pregnant, or their partner who is recovering from childbirth.

The Council of the City of Pittsburgh hereby enacts as follows:

Section 1. The Pittsburgh Code, Title Six Conduct, Article V Discrimination, Chapter 651 Findings and Policy Chapter 659 Unlawful Practices, Section 659.02 Unlawful Employment Practices is hereby amended as follows:

§ 651.01 - LEGISLATIVE FINDINGS.

-
- (a) The population of the City consists of people of every race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, familial status, handicap and disability, many of whom are discriminated against in employment opportunities, places of public accommodation, resort, recreation, and amusement and housing facilities.
 - (b) Discrimination because of race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, familial status, handicap and disability is contrary to laws and policies of the City of Pittsburgh.
 - (c) Discrimination in employment prevents the gainful employment of large segments of residents of the city, tends to impair the City's productive capacity, reduces the public revenues, imposes substantial financial burdens upon the public for relief and welfare, and tends to create breaches of the peace and depressed living conditions which breed crime, vice, juvenile delinquency and disease, and is detrimental to the public safety, economic growth and general welfare of the city.
 - (d) Discrimination in housing results in overcrowded, segregated areas with substandard, unsafe and unsanitary living conditions, which cause increased mortality, disease, crime, vice and juvenile delinquency, fires and risk of fire, intergroup tensions and other evils, all of which increase the cost of government and reduce the public revenues, and result in injury to the public safety, health and welfare of the city.
 - (e) Discrimination in places of public accommodations, resort, recreation, amusement and places of business causes humiliation, embarrassment and inconvenience to residents and visitors of the city, tends to create breaches of the peace, intergroup tensions and conflicts and similar evils and is detrimental to the public safety, general welfare and economic growth of the city.

§ 651.02 - DECLARATION OF POLICY.

- (a) It is hereby declared to be the policy of the city, in the exercise of its powers for the protection of the public safety and the general welfare, for the maintenance of peace and good government and for the promotion of the City's trade, commerce and manufacturers, to assure the right and opportunity of all persons to participate in the social, cultural, recreational and economic life of the city, and to assure equal opportunity for all persons to live in decent housing facilities, free from restrictions because of race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, familial status, age, status as a victim of domestic violence, handicap or disability or use of support animals, because of the handicap or disability of the user; and
- (b) It shall be the public policy of the City to prohibit discrimination because of race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, familial status, age, nonjob related handicap, or disability in employment; and
- (c) It shall be the public policy of the City to prohibit discrimination because of race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, familial status, handicap or disability or use of support animals because of the handicap or disability of the user, in places of public accommodation, resort, recreation or amusement.
- (d) Nothing in this Chapter shall be construed as supporting or advocating any particular doctrine, position, point of view, life style or religious view. To the contrary, it is the intention of this Chapter that all persons

are treated fairly and equally and it is the express intent of this Chapter to guarantee fair and equal treatment under law to all people of the city.

§ 651.03 - SCOPE AND JURISDICTION.

This Article applies to discriminatory practices, including but not limited to discrimination in employment, housing and public accommodations, which occur within the territorial limits of the city, and to employment contracted for, performed or to be performed within these limits, and to places of public accommodations, resort, recreation and amusement located within the City limits.

§ 651.04 - DEFINITIONS.

As used in this Article, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

- (a) COMMISSION. The Commission on Human Relations as established by the Pittsburgh Home Rule Charter.
- (b) DISCRIMINATE OR DISCRIMINATION. Any difference in treatment based on race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, gender identity or expression, familial status, age, handicap or disability, or use of support animals, as specified.
- (c) EMPLOYER. Any person who employs five (5) or more employees, exclusive of the parents, spouse or children of such person, including the City of Pittsburgh, its departments, boards, commissions and authorities, and any other governmental agency within its jurisdiction, but excluding any religious, fraternal, charitable or sectarian organization which is not supported in whole or part by any governmental appropriations.
- (d) EMPLOYMENT. Shall not include the employment of individuals in domestic service.
- (e) EMPLOYMENT AGENCY. Any person regularly undertaking with or without compensation to procure opportunities for employment or to procure, recruit, refer or place employees.
- (f) LABOR ORGANIZATION. 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 relation to employment.
- (g) LENDING INSTITUTION. Any bank, insurance company, saving and loan association, or any other person whose business consists in whole or in part in lending money or guaranteeing loans.
- (h) Reserved.
- (i) OWNER. Includes the owner, co-owner, lessee, sublessee, mortgagee, assignee, manager, agent or any other person having the right of ownership or possession or the authority to sell, rent or lease any dwelling, or any person having an equitable or security interest in any dwelling, including the City of Pittsburgh and its departments, boards, commissions and authorities.

- (j) **REAL ESTATE BROKER.** Any natural person, partnership, corporation or other association which for a fee or other valuable consideration manages, sells, purchases, exchanges or rents or negotiates, or offers or attempts to negotiate the sale, purchase, exchange or rental of the real property of another, or holds itself out as engaged in the business of managing, selling, purchasing, exchanging or renting the real property of another, or collects rent for the use of the real property of another, and includes real estate salespersons or agents or any other person employed by a real estate broker to perform or to assist in the performance of their business.
- (k) **PUBLIC ACCOMMODATION, RESORT, RECREATION OR AMUSEMENT.** Includes any place, business or activity which is open to, accepts or solicits the patronage of the general public or offers goods, services or recreation to the general public.
- (l) Repealed
- (m) Repealed
- (n) **SEXUAL ORIENTATION.** Male or female homosexuality, heterosexuality and bisexuality or perceived homosexuality, heterosexuality and bisexuality.
- (o) **ACCESSIBLE.** When used with respect to the public and common use areas of a building containing covered multifamily dwellings, means:
- (1) That the public or common use areas of the building can be approached, entered and used by individuals with physical handicaps. The phrase "readily accessible to and usable by" is synonymous with accessible. A public or common use area that complies with the appropriate requirements of ANSI A117.1-1986 or a comparable standard is ACCESSIBLE within the meaning of this subsection; or
 - (2) Being in compliance with the applicable standards set forth in the following:
 - A. The Fair Housing Act (Public Law 90-284, 42 U.S.C. Section 3601, et seq.);
 - B. The Americans with Disabilities Act of 1990 (Public Law 101-336, 42 U.S.C. Section 12101 et seq.); and
 - C. The Act of September 1, 1965 (P.L. 459, No. 235), entitled, as amended, "An act requiring that certain buildings and facilities adhere to certain principles, standards and specifications to make the same accessible to and usable by persons with physical handicaps, and providing for enforcement;" and
 - D. Any other applicable Federal or State law or regulation, or any local ordinance or resolution, relating to accessibility or accommodations.
- (p) **AGE.** Includes any person forty (40) years of age or older and shall also include any other person so protected by further amendment to the Federal Age Discrimination in Employment Act.
- (q) **AGGRIEVED PERSON.** Any person who:
- (1) Claims to have been injured by an unlawful practice under Chapter 659; or
 - (2) Believes that such person will be injured by an unlawful practice under Chapter 659.
- (r) **ANSI A117.1-1986.** The 1986 edition of the American National Standard Institute for buildings and

facilities providing accessibility and usability for physically handicapped people.

- (s) **CHARITABLE ORGANIZATION.** An organization, institution, association or corporation which is dedicated to philanthropic pursuits and provides goods, services and financial aid to the public free of charge.
- (t) **COMMON USE AREAS.** Rooms, spaces or elements inside or outside of a building that are made available for the use of residents of a building or the guest thereof. These areas include, but are not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas and passageways among and between buildings.
- (u) **CONCILIATION.** The attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent and the Commission.
- (v) **CONCILIATION AGREEMENT.** A written agreement setting forth the resolution of the issues in conciliation.
- (w) **COVERED MULTIFAMILY DWELLINGS.** Buildings consisting of four (4) or more units if such buildings have one (1) or more elevators; and ground floor units in other buildings consisting of four (4) or more units.
- (x) **DISABILITY.** The term **DISABILITY** is synonymous with the term **HANDICAP**.
- (y) **DISCRIMINATORY HOUSING PRACTICE.** Any act that is unlawful under § 659.03.
- (z) **DWELLING.** Any building, structure or portion thereof which is occupied as or designed or is intended for occupancy as, a residence by an individual or one (1) or more families, or by a group of persons living together, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (aa) **DWELLING UNIT.** A single unit of residence for a family of one (1) or more persons.
- (bb) **FAIR HOUSING ACT.** Public Law 90-284, 42 U.S.C. Section 3601 et seq., as amended.
- (cc) **FAMILIAL STATUS.** One (1) or more individuals who have not attained the age of eighteen (18) years being domiciled with:
 - (1) A parent or other person having legal custody of such individual or individuals; or
 - (2) The designee of such parent or other person having such custody, with the written permission of such parent or other person.
- The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.
- (dd) **HANDICAP.** The term handicap or disability, with respect to a person, means:
 - (1) A physical or mental impairment which substantially limits one (1) or more of such person's major life activities; or

- (2) A record of having such an impairment; or
 - (3) Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled Substances Act (Public Law 91-513, 21 U.S.C. Section 802).
- (ee) HOUSING FOR OLDER PERSONS.
- (1) Housing:
 - A. Provided under any state or federal program that the U.S. Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program; or
 - B. Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or
 - C. Intended and operated for at least one (1) person fifty-five (55) years of age or older per unit as determined by the Secretary of U.S. Housing and Urban Development.
 - (2) In determining whether housing qualifies as housing for older persons under this Article, the Commission shall follow the standards set forth in the Fair Housing Act and regulations pertaining to housing for older persons as promulgated by the U.S. Secretary of Housing and Urban Development.
 - (3) Housing shall not fall to meet the requirements for housing for older persons by reason of unoccupied units provided that such units are reserved for occupancy by persons who meet the age requirements of this subsection.
- (ff) INDEPENDENT CONTRACTOR. Includes any person who is subject to the provisions governing any of the professions and occupations regulated by State licensing laws enforced by the Bureau of Professional and Occupational Affairs in the Department of State, or is included in the Fair Housing Act.
- (gg) NONJOB RELATED HANDICAP OR DISABILITY. Any handicap or disability which does not substantially interfere with the ability to perform the essential functions of the employment which a handicapped person applies for, is engaged in or has been engaged in.
- (hh) RESIDENTIAL REAL ESTATE-RELATED TRANSACTION. Any of the following:
- (1) The making or purchasing of loans or providing other financial assistance and any terms and conditions of such a transaction:
 - A. For purchasing, constructing, improving, repairing or maintaining a dwelling; or
 - B. Secured by residential real estate.
 - (2) The selling, brokering or appraising of residential real property.
- (ii) SEX. The gender of a person, as perceived, presumed or assumed by others, including those who are changing or have changed their gender identification.
- (jj) DOMESTIC VIOLENCE. The occurrence of one or more of the following acts between family or household members, sexual, or intimate partners, or persons who share biological parenthood:
- (1.) Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury, serious bodily

injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault or incest, with or without a deadly weapon.

(2.) Placing another in reasonable fear of imminent serious bodily injury.

(3.) The infliction of false imprisonment pursuant to 18 Pa. C.S. § 2903 (relating to false imprisonment).

(4.) Physically or sexually abusing minor children, including sexual abuse as defined at 23 Pa. C.S. § 6303.

(5.) Stalking as defined in Section 651.04(l)

(ll) STALKING. Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or engaging in a course of conduct or repeatedly communicating to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

(mm) VICTIM OF DOMESTIC VIOLENCE. An individual who has been subjected to Domestic Violence.

(nn) PREGNANCY. The state of being pregnant, including the partner of a pregnant person, seeking to become pregnant, and related symptoms of pregnancy.

(oo) CHILDBIRTH. Labor or childbirth, whether or not it results in a live birth.

(pp) RELATED MEDICAL CONDITIONS AND EVENTS. Any medical condition and events that are related to or caused by pregnancy or childbirth, which can occur before, during, or after the gestation period, or after childbirth, whether or not it results in a live birth, including being the partner of a person affected by any such related medical condition or event.

CHAPTER 659: - UNLAWFUL PRACTICES

§ 659.01 - GENERAL PROHIBITIONS.

No person whether or not within any named classifications set forth herein, shall aid, incite, compel, coerce or participate in the doing of any act declared to be an unlawful practice under this Article, or obstruct or prevent enforcement of compliance with the provisions of this Article or any rule, regulation or order of the Human Relations Commission, or attempt directly or indirectly to commit any act declared by this Article to be an unlawful practice.

§ 659.02 - UNLAWFUL EMPLOYMENT PRACTICES.

It shall be an unlawful employment practice, except where based upon applicable national security regulations established by the United States, the Commonwealth or any political subdivisions thereof, or except where based upon a bona fide occupational exemption certified by the Commission in accordance with Section 653.05 (d):

(a) For any employer to refuse to hire any person or otherwise to discriminate against any person with respect

Committee: Committee on Human Resources

Status: Passed Finally

to hiring, tenure, compensation, promotion, discharge or any other terms, conditions or privileges directly or indirectly related to employment because of race, color, religion, ancestry, national origin, place of birth, **pregnancy, childbirth, or related medical conditions and events**, sex ~~including pregnancy, childbirth, or a related medical condition~~, sexual orientation, age, nonjob-related handicap or disability.

(b)

For any employer, employment agency or labor organization to establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, the employment or membership opportunities of any person or group of persons because of race, color, religion, ancestry, national origin, place of birth, **pregnancy, childbirth, or related medical conditions and events**, sex ~~including pregnancy, childbirth, or a related medical condition~~, sexual orientation, age, nonjob-related handicap or disability.

(c)

For any employer, labor organization, employment agency or any joint labor management committee controlling apprentice training programs to deny to or withhold from any person the right to be admitted to or participate in a guidance program, an apprenticeship training program, an on-the-job training program or any other occupational training program because of race, color, religion, ancestry, national origin, place of birth, **pregnancy, childbirth, or related medical conditions and events**, sex ~~including pregnancy, childbirth, or a related medical condition~~, sexual orientation, age, nonjob-related handicap or disability.

(d)

For any employer, employment agency or labor organization to require of any applicant for employment or membership any information concerning race, color, religion, ancestry, national origin, place of birth, **pregnancy, childbirth, or related medical conditions and events**, sex ~~including pregnancy, childbirth, or a related medical condition~~, sexual orientation, age, nonjob-related handicap or disability.

(e)

For any employer, employment agency or labor organization to publish or circulate, or to cause to be published or circulated, any notice or advertisement relating to employment or membership which indicates any discrimination because of race, color, religion, ancestry, national origin, place of birth, **pregnancy, childbirth, or related medical conditions and events**, sex ~~including pregnancy, childbirth, or a related medical condition~~, sexual orientation, age, nonjob-related handicap or disability.

(f)

For any employment agency to fail or refuse to classify properly or refer for employment or otherwise to discriminate against any person because of race, color religion, ancestry, national origin, place of birth, **pregnancy, childbirth, or related medical conditions and events**, sex ~~including pregnancy, childbirth, or a related medical condition~~, sexual orientation, age, nonjob-related handicap or disability.

(g)

Committee: Committee on Human Resources

Status: Passed Finally

For any employer substantially to confine or limit recruitment or hiring of employees, with intent to circumvent the spirit and purpose of this Article, to any employment agency, employment service, labor organization, training school, training center or any other employee-referring source which serves persons who are predominantly of the same race, color, religion, ancestry, national origin, place of birth, **pregnancy, childbirth, or related medical conditions and events**, sex ~~including pregnancy, childbirth, or a related medical condition~~, sexual orientation, age, nonjob-related handicap or disability.

(h)

For any labor organization to discriminate against any person in any way which would deprive or limit his employment opportunities or otherwise adversely affect his status as an applicant for employment or as an employee with regard to tenure, compensation, promotion, discharge or any other terms, conditions or privileges directly or indirectly related to employment because of race, color, religion, ancestry, national origin, place of birth, **pregnancy, childbirth, or related medical conditions and events**, sex ~~including pregnancy, childbirth, or a related medical condition~~, sexual orientation, age, nonjob-related handicap or disability.

(Ord. 13-1980, eff. 8-8-80; Am. Ord. 2-1990, eff. 4-3-90; Ord. No. 21-2014, § 1, eff. 10-14-14)

(i)

For any employer, employment agency or labor organization to discriminate against any person because he has opposed any practice forbidden by this Article or because he has made a complaint or testifies or assisted in any manner in any investigation or proceeding under this Article.

(j)

For any person, whether or not an employer, employment agency or labor organization, to aid, incite, compel, coerce or participate in the doing of any act declared to be an unlawful employment practice by this Article, or to obstruct or prevent any person from enforcing or complying with the provisions of this Article or any rule, regulation or order of the Human Relations Commission, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful employment practice.