

CHAPTER 2014-33

No. 399 AN ORDINANCE IN AMENDMENT OF CHAPTER 16, "OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE II, "DISCRIMINATION"

Approved August 8, 2014

Be it ordained by the City of Providence:

Section 1. The Code of Ordinances of the City of Providence, Chapter 16, "Offenses and Miscellaneous Provisions," Article II, "Discrimination," is hereby amended as follows:

Sec. 16-51. - Findings of the council.

The practice or policy of discrimination against individuals because of race, color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age or country of ancestral origin, is a matter of grave public concern. Such discrimination foments domestic strife and unrest, threatens the rights and privileges of our people and undermines the foundations of a free democratic state. The denial of equal opportunities because of such discrimination deprives large segments of the population of the City of Providence of the ability to maintain decent standards of living and intensifies group conflicts, thereby resulting in grave injury to the public safety, health and welfare.

Sec. 16-52. - Public policy.

It is hereby declared to be the public policy of the City of Providence to foster the equal opportunities of all individuals in the city in accordance with their fullest capacities and abilities, regardless of their race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age or country of ancestral origin, and to safeguard their right to be free from such discrimination in housing, education, employment, credit and public accommodation.

Sec. 16-53. - Exercise of police power.

This article shall be deemed an exercise of the police power of the said city for the protection of public welfare, prosperity, health and peace of its people.

Sec. 16-54. - Definition of term.

- (a) *Bona fide qualifications* refers to a valid consideration of race and color, sex, sexual orientation, religion, marital status, disability, age or country of ancestral origin which has been certified as such by the commission or by the Rhode Island Commission on Human Rights.
- (b) *Charge* is that which is brought by a complainant alleging an unlawful practice or that which is filed by the commission following an investigation.
- (c) *Commission* means the Providence Human Relations Commission, its agents and employees.
- (d) *Complaint* is that which is issued by the commission on its own behalf or in the behalf of the complainant and subsequent to a probable cause determination.
- (e) *Discrimination* includes any policy or practice which by design or effect segregate, separates or has a disproportionate impact according to race or color, sex, sexual orientation, religion, marital status, disability, age or country of ancestral origin or because of the race or color, sex, sexual orientation, religion, marital status, disability, age or country of ancestral origin of any person with whom they are or may wish to be associated, and which is not required by business necessity.
- (f) *Employment agency* includes any person undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer, or place employees.
- (g) *Employee* does not include any person employed by his or her parents, spouse or child.

- (h) *Employer* includes the city and all its departments and authorities, and all persons employing seven (7) or more individuals within the City of Providence, or any person acting as the agent of an employer either directly or indirectly. The term does not apply to a religious corporation, religious association, religious educational institution, or religious society with respect to the employment of individuals of its religion to perform work connected with the carrying on of its religious activities.
- (i) *Educational facilities* means any public or private institution of learning.
- (j) *Gender identity or expression* means 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 the person's sex at birth.
- (k) *Housing accommodation* includes any building or structure or portion thereof, or any parcel of land, developed or undeveloped, which is occupied, or intended, designed, or arranged to be occupied, or to be developed for occupancy, as the home, residence, or commercial business of one (1) or more persons, but excludes any dwelling unit which, under the provisions of state fair housing laws, are exempt by virtue of their location in an owner-occupied building.
- (l) *Labor organization* includes 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.
- (m) *Public accommodation* refers to any public resort, accommodation, assemblage, amusement, business, or establishment that provides a service or function, personal, or otherwise licensed, or unlicensed, including but not limited to inns, taverns, bars, roadhouses, hotels, motels, trailer parks, camp sites, restaurants, diners, or any place where food or beverage is sold, retail stores and establishments, dispensaries, clinics, hospitals, rest homes, nursing homes, rest rooms, bathhouses, barber shops, beauty parlors, trade schools or vocational establishments, theaters, motion picture houses, music halls, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors, swimming pools, athletic or recreational facilities, seashore accommodations, public libraries, garages, all public conveyances operated on land, water, in the air or underground, as well as the stations and terminals thereof, public halls and rooms and public stairs and elevators of buildings or other public accommodations, public housing projects, clubs, societies, fraternities, sororities, associations, or other organizations that are public or quasi-public, banks, finance companies, insurance companies, building and construction companies, other businesses; traffic and other courts, and licensing and regulating bodies and all public policies, programs, and activities. Nothing herein contained shall be construed to include, or apply to, any place of accommodation which is by its nature distinctly private; provided, that where public use is permitted, that use shall be covered by this article.
- (n) *Disability* means any condition or characteristic whether physical or mental which renders a person disabled as defined by 42 USC 1202(2), commonly referred to as the "Americans With Disabilities Act of 1990", as amended.
- (o) *Sexual discrimination* shall be deemed to include situations where an individual, acting independently, is discriminated against because of gender.
- (p) *Discounts*. Any reduction of the normal charge for products or services. Includes those offered on a free basis.

Sec. 16-55. - Unlawful housing practices.

It shall be an unlawful housing practice:

- (a) For any owner, lessee, sub-lessee, assignee, managing agent, real estate agent, or other person having the right to sell, rent, lease, or manage a housing accommodation or an agent of any of those:
 1. To discriminate or directly or indirectly make or cause to be made any written or oral inquiry concerning race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin of any prospective purchaser, occupant, or tenant of such housing accommodation;

2. To discriminate or directly or indirectly to refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual, such housing accommodation because of the race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin of such individual;
 3. To discriminate or directly or indirectly print or publish or cause to be printed or published, circulated, broadcasted, issued, used, displayed, posted, or mailed any written, printed or painted or oral communication, notice or advertisement relating to the sale, rental, lease or let of such housing accommodation which indicates any preference, denial, limitation, specification, qualification, or discrimination, based upon race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age or country of ancestral origin;
 4. To directly or indirectly discriminate against any person because of his or her race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin in the terms, conditions, or privileges of the sale, rental, lease, or let of any such housing accommodation or in the furnishing of facilities or services in connection therewith;
- (b) For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured;
1. To discriminate or to directly or indirectly make or cause to be made any written or oral inquiry concerning the race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin of any individual seeking such financial assistance, or of existing or prospective occupants or tenants of such housing accommodation, nor shall any such person to whom such application is made, directly or indirectly discriminate in the terms, conditions or privileges relating to the obtaining or use of any such financial assistance against any applicant because of race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin of such applicant, or of the existing or prospective occupants or tenants thereof;
 2. To discriminate or to directly or indirectly deny or limit such application for financial assistance on the basis of an appraiser's, whether independent or not, evaluation of the property or neighborhood under consideration, when such evaluation is based on discriminatory criteria;
- (c) For any person, agent, firm, corporation or association, whether or not acting for monetary gain, to directly or indirectly induce, attempt to induce, prevent or attempt to prevent the sale, purchase, rental, or letting of any housing accommodation by:
1. Implicit or explicit representations regarding the existing or potential proximity of real property owned, used, or occupied by persons of any particular race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
 2. Implicit or explicit representations regarding the effects or consequences of any such existing or potential proximity, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other facilities;
 3. Implicit or explicit false representations regarding the availability of suitable housing within a particular neighborhood or area, or failure to disclose or offer to show all properties listed or held for sale, rent, lease, or let within a requested price range, regardless of location, so as to promote the continuance or maintenance of segregated housing or so to retard, obstruct, or discourage integrated housing on or in any street, block, or neighborhood.

(d) Except where based on a valid affirmative action program or record keeping or reporting requirements:

1. For any person, agent, manager, owner, or developer of any apartment or housing unit, complex, or development, whether commercial or residential to directly or indirectly make or keep a record of any applicant's, prospective tenant's, or tenant's race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
2. To use any form of housing or loan application which contain questions or entries directly or indirectly pertaining to race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
3. Establish, announce, or follow a pattern, practice, or policy of denying, excluding or limiting by any means whatsoever housing accommodations to any group because of the race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, country of ancestral origin of such group;

(e) For any person to discriminate in any manner against any individual, or deny that individual because he or she has opposed any practice forbidden by this article, or because he or she has made a charge, testified, or assisted in any manner in any investigation, proceeding, or hearing under this article;

(f) For any person, whether or not acting for monetary gain, to aid, abet, incite, compel or coerce the doing of any act declared by this section to be unlawful housing practice, or to obstruct or prevent any person from complying with the provisions of this article or any regulations or issued thereunder, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful housing practice;

(g) Nothing contained in this section shall be construed to prevent the operation or establishment of housing facilities designed for the exclusive use of the aged or elderly and/or disabled, nor to prohibit the establishment of programs assigned to meet the needs of circumstances of handicapped disabled persons.

Sec. 16-56. - Unlawful education practices.

It shall be an unlawful education practice:

(a) For any school, educational institution or facility:

1. To discriminate or to directly or indirectly fail or refuse to admit or grant entrance, or provide, furnish, or make available, equal educational services, materials, or opportunities to any person because of race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
2. To discriminate or to directly or indirectly print or publish or cause to be printed or published, circulated, broadcast, issued, used, displayed, posted, or mailed any written, printed or painted or oral communication, notice or advertisement relating to education indicating any preference, denial, limitation, specification, qualification, practice, or discrimination based on race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
3. To establish, announce, or follow, a pattern, practice, or policy of denying, excluding or limiting educational services, materials, or opportunities to any group because of the race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin of such group;

- (b) For any person to discriminate in any manner against any individual or deny that individual because he or she has opposed any practice forbidden by this article or because he or she has made a charge, testified, or assisted in any manner in any investigation, proceeding, or hearing under this article;
- (c) For any person, whether or not acting for monetary gain, to aid, abet, incite, compel or coerce the doing of any act declared by this section to be an unlawful education practice, or to obstruct or prevent any person from complying with the provision of this article, or any regulation or order issued thereunder, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful education practice.

Sec. 16-57. - Unlawful employment practices.

- (a) Findings and intent. It is the intent of the City of Providence to combat pregnancy discrimination by requiring employers to provide reasonable accommodations to pregnant women and those with conditions related to pregnancy and childbirth. Such a reasonable accommodation may include more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, seating, temporary transfer to a less strenuous or hazardous position, job restructuring, light duty, break time and private non-bathroom space for expressing breast milk, assistance with manual labor, or modified work schedules, among other things. It is not the intent of the City of Providence to require such accommodations if this provision would cause an undue hardship in the conduct of an employer's business.
- (b) For the purposes of this section:
 1. The term "reasonably accommodate" shall mean providing reasonable accommodations, including, but not limited to: more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, seating, temporary transfer to a less strenuous or hazardous position, job restructuring, light duty, break time and private non-bathroom space for expressing breast milk, assistance with manual labor, or modified work schedules, provided that:
 - i. no employer shall be required by this subsection to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation, such as those who are injured on-the-job or those with disabilities and;
 - ii. the employer shall not be required to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job, unless the employer does so or would do so to accommodate other classes of employees who need it, such as those who are injured on-the-job or those with disabilities.
 - iii. Nothing in this chapter shall be construed to require an individual with a need related to pregnancy, childbirth, or a related medical condition to accept an accommodation which such individual chooses not to accept.
 2. The term "related conditions" includes, but is not limited to, lactation or the need to express breast milk for a nursing child.
 3. The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in Sec. 16-57 (b) (1).
 - i. The employer shall have the burden of proving undue hardship. In making a determination of undue hardship, the factors that may be considered include but shall not be limited to:

1. the nature and cost of the accommodation;
 2. the overall financial resources of the employer; the overall size of the business of the employer with respect to the number of employees, and the number, type, and location of its facilities; and
 3. the effect on expenses and resources or the impact otherwise of such accommodation upon the operation of the employer.
- ii. The fact that the employer provides or would be required to provide a similar accommodation to other classes of employees who need it, such as those who are injured on-the-job or those with disabilities, shall create a rebuttable presumption that the accommodation does not impose an undue hardship on the employer.
4. The term "employer" includes any contractor hired by the City of Providence.
- (c) It shall be an unlawful employment practice:

1. For any employer:

- a. To fail or refuse to hire any applicant for employment or otherwise discriminate because of race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin; or
- b. Because of such reasons, to discharge an employee or discriminate against him or her with respect to hire, tenure, compensation, promotion, terms, conditions, or privileges of employment, or any other matter directly or indirectly related to employment; or
- c. In the recruiting of individuals for employment or in hiring them, to utilize any employment agency, placement service, training school or center, labor organization, or any other employee referring source which such employer knows, or has reasonable cause to know, discriminates against individuals because of their race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
- d. To treat disabilities caused or contributed to by pregnancy, miscarriage, childbirth or recovery therefrom, differently than other temporary disabilities under any health or temporary disability insurance, or sick leave plan available in connection with employment. Pay, tenure, benefits, seniority, and re-instatement shall be afforded in the same manner for medically necessary pregnancy-related absences as they are for other medically necessary absences.
- e. To refuse to reasonably accommodate an employee's or prospective employee's condition related to pregnancy, childbirth, or a related medical condition, including, but not limited to, the need to express breast milk for a nursing child, if she so requests; unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise, or business.
- f. To require an employee to take leave if another reasonable accommodation can be provided to an employee's condition related to the pregnancy, childbirth, or a related medical condition.
- g. To deny employment opportunities to an employee or prospective employee, if such denial is based on the refusal of the employer to reasonably accommodate an employee's or prospective employee's condition related to pregnancy, childbirth, or a related medical condition.

2. For any employment agency:
 - a. To discriminate or to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of his or her race or color, sex, sexual orientation, gender identity or expression, religion, marital status, handicap, disability, age, or country of ancestral origin; or
 - b. For any employment agency, placement service, training school or center, labor organization, or any other employee referring source to discriminate or to comply with an employer's request for the referral of job applicants if such request indicates either directly or indirectly that such employer will not afford full and equal employment opportunities to individuals regardless of their race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
3. For any labor organization:
 - a. To discriminate against or deny full and equal membership rights to any applicant for membership because of his or her race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin; or
 - b. Because of such reasons, to deny a member full and equal membership rights, expel him or her from membership, or otherwise discriminate in any manner with respect to hire, tenure compensation, terms, conditions, or privileges of employment, or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of such labor organization, or by a collective labor agreement or other contract; or
 - c. To fail or refuse to classify properly or refer for employment, or otherwise to discriminate against any member because of his or her race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
 - d. To treat disabilities caused or contributed to by pregnancy, miscarriage, childbirth or recovery therefrom differently than any other temporary disabilities under any health or temporary disability insurance or sick leave plan available in connection with employment. Pay, tenure, benefits, seniority, and re-instatement shall be afforded in the same manner for medically necessary pregnancy-related absences as they are for other medically necessary absences.
4. Except where based on a bona fide occupational qualification which has been certified by the commission, for any person, employer, employment agency, labor organization, placement service, training school or center, or any other employee referring source prior to employment or admission to membership of any individual, to:
 - a. To discriminate or elicit or attempt to elicit any information directly or indirectly pertaining to the individual's race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
 - b. Except where based on a valid affirmative action program or record keeping or reporting requirements to make or keep a record of the individual's race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;

- c. Use any form of application or membership blank which contains questions or entries directly or indirectly pertaining to race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
 - d. Conduct any interview in person or otherwise where information is elicited pertaining to race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
 - e. To discriminate or to directly or indirectly print or publish or cause to be printed or published, circulated, broadcasted, issued, used, displayed, posted or mailed any written, printed, painted or oral communication, notice, or advertisement relating to employment or membership indicating any preference, denial, limitation, specification, qualification, or discrimination based upon race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
 - f. Establish, announce, or follow a pattern, practice, or policy of denying, under-utilizing or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin of such group;
5. For any person, employer, employment agency, labor organization, placement service, training school or center, or any other employee referring source to discriminate in any manner against any individual or deny that individual because he or she has opposed any practice forbidden by this article, or because he or she has made a charge, testified, or assisted in any manner in an investigation, proceeding, or hearing under this article;
 6. For any person, whether or not an employer, employment agency, labor organization, placement, service training school or center, or employee, to aid, abet, incite, compel, or coerce the doing of any act declared by this section to be an unlawful employment practice, or to obstruct or prevent any person from complying with the provisions of this article or any regulation or order issued hereunder, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful employment practice.
- (d) Notice of rights. An employer shall provide written notice of the right to be free from discrimination in relation to pregnancy, childbirth, and related medical conditions pursuant to Sec. 16-57 (a) (b) and (c) to new employees at the commencement of employment, and to existing employees within one hundred twenty days after the effective date of the ordinance amending Sec. 16-57. Such notice may also be conspicuously posted at an employer's place of business in an area accessible to employees.
- (e) Section 16-57 (a) (b) and (c) shall not be construed to affect any other provision of law relating to sex discrimination or pregnancy, or to preempt, limit, diminish or otherwise affect any other law that provides greater protection or specific benefits with respect to pregnancy, childbirth or medical conditions related to childbirth.

Sec. 16-58. - Unlawful credit practices.

It shall be unlawful credit or loan practice:

- (a) Any financial organization governed by the provisions of Title 19 of the General Laws, entitled "Financial Institutions", or any other credit granting, reporting, appraising, or approving institution, agency, business or association:
1. To discriminate in the granting, reporting, approval, or extension of any form of loan or credit, or of the privileges or capacity to obtain any form of loan or credit, on the basis of the applicant's race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
 2. To directly or indirectly print or publish or cause to be printed or published, circulated, broadcasted, issued, used, displayed, posted, or mailed any written, printed or painted oral communication, notice, or advertising relating to loans or the extension of credit indicating any preference, denial, limitation, specification, qualification, or discrimination based upon race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
 3. To discriminate or to use any form of loan or credit application which contains questions or entries directly or indirectly pertaining to race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
 4. To establish, announce or follow a pattern, practice, or policy of denying, excluding, or limiting the extension of loans or credit to any group because of the race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin of such group;
- (b) For any person to discriminate in any manner against any individual or deny that individual because he or she has opposed any practice forbidden by this article, or because he or she has made a charge, testified, or assisted in any manner in any investigation, proceeding or hearing under this article;
- (c) For any person, whether or not acting for monetary gain, to aid, abet, incite, compel or coerce the doing of any act declared by this section to be an unlawful credit or loan practice, or to obstruct or prevent any person from complying with the provisions of this article, or any regulation or order issued thereunder, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful credit or loan practice.

Sec. 16-59. - Unlawful public accommodation practice.

It shall be an unlawful public accommodation practice:

- (a) For any person, owner, lessee, proprietor, manager, director, superintendent, agent, employee, committee, officer, or board of any place of public accommodation;
1. To discriminate or to directly or indirectly refuse, withhold from or deny to any person on account of race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin any of the accommodations, advantages, facilities, or privileges thereof;
 2. To discriminate or to directly or indirectly print or publish or cause to be printed or published, circulated, broadcasted, issued, used, displayed, posted, or mailed any written, printed or painted or oral communication, notice, or advertisement relating to public accommodations indicating any preference, denial, limitation, specification, qualification, or discrimination based upon race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;

3. To discriminate or to directly or indirectly elicit or attempt to elicit any information regarding an individual's race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin; or, to use, any form of application which contains questions or entries directly or indirectly pertaining to such information;
 4. To establish, announce, or follow a pattern, practice, or policy of denying, excluding, or limiting services or membership to any group because the race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin of such group;
- (b) For any person to discriminate in any manner against any individual, or deny that individual because he or she has opposed any practice forbidden by this article or because he or she has made a charge, testified, or assisted in any manner in any investigation, proceeding, or hearing under this article;
- (c) For any person, whether or not acting for monetary gain, to aid, abet, incite, compel, or coerce the doing of any act declared by this section to be unlawful accommodation practices, or to obstruct or prevent any person from complying with the provisions of this article or any regulation or order issued thereunder, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful public accommodation practice.

Sec. 16-60. - Exercise of privilege; exemption.

- (a) Nothing in this article contained shall be construed in any manner to prohibit or limit the exercise of the privilege of every person to establish standards and preferences and set terms, conditions, limitations, or specifications in any manner herein discussed which are not based on the race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age; or country of ancestral origin of the individual or the race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin of any person with whom the individual is or may wish to be associated; nor shall this article be construed to apply to any religious organization nor to render any otherwise unlawful conduct lawful, nor to create or to grant classification, status, or class protections to any person or persons not otherwise granted such classification, status or class protections.
- (b) Notwithstanding anything herein contained the following practices shall not be violations of this article:
1. For a religious organization or institution to restrict any of its facilities of housing or accommodation which are operated as a direct part of religious activities to persons of the denomination involved, or to restrict employment opportunities for officers, religious instructors and clergy to persons of that denomination.
 2. For the owner of a housing facility devoted entirely to the housing of individuals of one sex, to restrict occupancy and use on the basis of sex.
 3. To refuse employment to any person under eighteen (18) years of age, or refuse admission to or provision of the services of a public accommodation or financial institution to persons under eighteen (18) years of age, or any other age established by law.
 4. To provide discounts on products or services to minors and the aged, elderly and/or disabled.
 5. To restrict use of lavatories and locker room facilities on the basis of sex.
 6. For a religious or denominational educational institution to select its pupils exclusively or primarily from members of such religion or denomination, or to give preference to such selection so as to promote the religious principle for which it was established.
 7. For a public or private preschool, elementary school or secondary school (except where such schools are vocational) to discriminate on the basis of sex in relation to admissions only.

Sec. 16-61. - Time limit for filing charges.

Any charge under this article must be filed within one hundred eighty (180) days after the alleged act of discrimination.

Sec. 16-62. - Commission established.

There is hereby established a Providence Human Relations Commission, which shall consist of thirteen (13) members appointed by the mayor, with the approval of the city council, to serve without compensation, except for reasonable expenses incurred on commission business. Those incumbent members of the human relations commission on the effective date of this article [January 22, 1979] shall continue to serve throughout the terms to which they have previously been appointed. Thereafter, all appointments to the commission shall be for a term of three (3) years. In the event of the death or resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member has been appointed.

Sec. 16-63. - Function and duties of commission.

- (a) The commission shall act in a policy and advisory capacity, and its functions and duties shall be to further amicable relations among various segments of the population which together comprise the City of Providence; to help make it possible for each citizen, regardless of race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin, to develop talents and abilities without limitation, to aid in permitting the community to benefit from the fullest realization of its human resources, and to preserve and further the good name of Providence and its people for tolerance and fair play, and promote better relations among all people.
- (b) In order to accomplish the objectives herein set out, the commission shall advise the mayor, city council and other offices of the city on problems affecting human and inter-group relations; make studies, surveys and investigations to provide accurate information and data for orderly and constructive community development, and to recommend such measures as are deemed necessary to carry out the objectives for which the commission has been created; consult with, obtain cooperation and coordinated effort on the part of all agencies, both public and private, which function in the field of human relations, including schools, law enforcement agencies, welfare, youth, and other similar organizations; utilize the resources of individuals and groups toward the improvement of inter group relations, to combat those misconceptions and prejudices which set group against group, and to eliminate discriminatory practices and policies.

Sec. 16-64. - Powers of commission.

The commission is hereby empowered:

- (a) To provide for execution within its jurisdiction of the policies embodied in this article;
- (b) To safeguard all individuals within its jurisdiction from discrimination because of race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
- (c) To receive, initiate, investigate, hear and determine charges of violations of the provisions of this article forbidding discrimination;
- (d) Compel the attendance of witnesses and the production of evidence relevant to the matter in question for investigatory and determinative purposes by subpoena issued by the city council upon request in writing by said commission, and obtain enforcement of said subpoena in superior court;
- (e) Issue remedial orders after notice and hearing, requiring cessation of violations;
- (f) Employ an executive director, hearing examiners, clerks, agents and employees;
- (g) Accept grants, gifts or bequests, public or private, to help finance its activities;
- (h) Enter into deferral [referral] or other cooperative working agreements with the United States Equal Employment Opportunity Commission created by Title VII of the Federal Civil Rights Act of 1964 and with the Rhode Island Commission on Human Rights, and with any federal or state agency in order to achieve the purposes of this article;

- (i) To enact by majority vote of its members such rules and regulations as it may deem necessary and in the public interest to carry out the terms and conditions set out in this article. Such rules and regulations shall be signed by the chairperson of the commission and attested to by the executive director, and a copy shall be filed with the city clerk;
- (j) To elect a chairperson and other officers, and establish committees and advisory councils as it shall deem appropriate for the purposes of this article;
- (k) To render each year to the mayor and city council a full written report of all its activities and of its recommendations.

Sec. 16-65. - Certification of bona fide qualification.

Upon the filing of a petition by any interested person, the commission may determine whether a bona fide qualification should be certified for any position, housing, or public accommodation, credit or loan eligibility or education practice based on race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin.

Sec. 16-66. - Power to prevent unlawful practices; preference for informal methods.

The commission is empowered and directed, as hereinafter provided, to prevent any person from engaging in unlawful practices; provided, that before instituting a formal hearing, it shall attempt by informal methods of conference, persuasion, and conciliation, to induce voluntary compliance with this article.

Sec. 16-67. - Extraordinary relief.

The commission may, after preliminary investigation and upon determination that it is probable that an unlawful practice has been or is being engaged in, file a complaint in the superior court in Providence County seeking injunctive relief, including a temporary restraining order, against such respondent. No preliminary injunction shall be effective for more than thirty (30) days; provided, that if the respondent has sought judicial review of an order of the commission issued pursuant to this article, or if the commission has sought a decree of the court for the enforcement of such order, the preliminary injunction shall remain in full force and effect until such time as judicial review, or the commission's petition, or the decree of enforcement is finally heard and determined. The application by the commission for injunctive relief shall not prevent the commission from continuing to prosecute the proceeding before it, out of which the application arises.

Sec. 16-68. - Conciliation of charges of unlawful practices.

Upon the commission's own initiative, or whenever an aggrieved individual or an organization or group whose purposes include the combating of discrimination or racism, or of safeguarding civil liberties, or of promoting full, free, or equal opportunities, such individual, group, or organization being hereafter referred to as the complainant, makes a charge to the commission that any person, hereinafter referred to as the respondent, has engaged or is engaging in unlawful practices, the commission may initiate a preliminary investigation, and if it shall determine after such investigation that it is probable that unlawful practices have been or are being engaged in, it shall endeavor to eliminate such unlawful practices by informal methods of conference, conciliation, and persuasion, including a conciliation agreement. The terms of such conciliation agreement shall include provisions requiring the respondent to refrain from unlawful discriminatory practices in the future, and may contain such further provisions as may be included in an award under section 16-76 or as may be agreed upon by the commission and the respondent, including a provision for the entry in superior court of a consent decree embodying the terms of the conciliation agreement.

Sec. 16-69. - Complaint and notice of hearing.

If the commission fails to effect the elimination of such unlawful practices and to obtain voluntary compliance with this article, or, if the circumstances warrant, in advance of any such preliminary investigation or endeavors, the commission shall have the power to issue and cause to be served upon any person or respondent a complaint stating the charge in that respect. The commission shall then serve upon the respondent a notice of hearing before the commission, a member thereof, or a hearing examiner at a place therein fixed, to be held not less than ten (10) days after the service of such notice.

Sec. 16-70. - Amendment of complaint and answer; participation by commissioner assigned to preliminary determination.

The commission, a member thereof, or hearing examiner conducting the hearing shall have the power reasonably and fairly to amend any written complaint at any time prior to the issuance of an order based thereon. The respondent shall have like power to amend its answer to the original or amended complaint at any time prior to the issuance of such order. The commissioner assigned to the preliminary determination of any charge before the commission shall take no part in the final hearing, except as a witness upon competent matters, and will have no part in the determination or decision of the case after hearing.

Sec. 16-71. - Answer to complaint; respondent's right at hearing.

The respondent shall have the right to file an answer to such complaint, and shall appear at such hearing in person, or otherwise, with or without counsel, to present evidence to examine and cross-examine witnesses.

Sec. 16-72. - Rules of evidence.

In any such proceeding the commission, its members, or its agent, shall not be bound by the rules of evidence prevailing in the courts of law or equity.

Sec. 16-73. - Evidence of patterns of discrimination.

The commission may, in ascertaining the practices followed by the respondent, take into account all evidence, statistical or otherwise, which may tend to prove the existence of a pattern of discrimination; provided, that nothing in this section contained shall be construed to authorize or require any person to act in accordance with any criterion other than the individual qualifications of the applicant.

Sec. 16-74. - Testimony at hearing.

The testimony taken at the hearing shall be under oath and shall be reduced to writing and filed with the commission. Thereafter, in its discretion, the commission upon notice may take further testimony or hear argument.

Sec. 16-75. - Order dismissing charge or complaint.

- (a) If a preliminary investigating commissioner shall find that no probable cause exists for crediting the charge, a notice shall be served upon the complainant dismissing the charge as to such respondent. The complainant may present additional evidence to that commissioner for reconsideration of the ruling, or may request a review by the commission of the preliminary finding. A quorum of the commission may overrule the preliminary investigating commissioner or may affirm the earlier decision and issue an order dismissing the charge. Judicial review of the commission's final order may be obtained in accordance with this article.
- (b) If upon all the evidence at hearing, the commission shall find that the respondent has not engaged in unlawful practices, the commission shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent. The complainant may present additional evidence to the commission for reconsideration of its order. Judicial review of the commission's final order may be obtained.

Sec. 16-76. - Order and compliance.

- (a) If upon all the testimony taken, the commission shall determine that the respondent has engaged in or is engaging in unlawful practices, the commission shall issue and cause to be served upon such respondent an order requiring such respondent to cease and desist from such unlawful practices, and to take such further affirmative and other action as will effectuate the purposes of this article, including compliance reports; provided only, that any such order establishing remedial ratios shall be limited in time and scope to that which is required to eliminate or correct the effects of practices forbidden by this article, and that in no case shall the commission require the employment of a person or persons not otherwise qualified. The commission in its discretion may award the complainant for:
1. All damages sustained as a result of the unlawful act, including damages sustained through pain, humiliation and mental suffering;
 2. Payment of cost, including all reasonable attorney fees incurred at any time as a result of the unlawful act; and
 3. Punitive damages.
- (b) Upon submission of reports of compliance, the commission, if satisfied therewith, may issue a finding that the respondent has ceased to engage in unlawful practices.

Sec. 16-77. - Modification of findings of orders.

Until a transcript of the record in a case shall be filed in a court, as hereinafter provided, the commission may at any time, upon reasonable notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any of its findings or order.

Sec. 16-78. - Right to judicial review or enforcement.

- (a) Any complainant, intervenor, or respondent claiming to be aggrieved by a final order of the commission, may obtain judicial review thereof and the commission may obtain an order of the court for its enforcement. Such proceeding shall be brought in the superior court of Providence County, or wherein any respondent required in the order to cease and desist from unfair practices or to remedy or take other affirmative action, resides or transacts business.
- (b) Such proceeding shall be initiated by the filing of a petition in such court, together with a transcript of the record upon the hearing before the commission, and the service of a copy of the said petition upon the commission and upon all parties who appeared before the commission. Thereupon the court shall have jurisdiction of the proceeding and of the questions determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony and proceedings set forth in such transcript an order enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the commission.
- (c) An objection that has not been under or before the commission, its members or agent, shall not be considered by the court, unless failure or neglect to urge such objection shall be excused because of extraordinary circumstances.
- (d) If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the commission, its members or agent, the court may order such additional evidence to be taken before the commission, its members or agent, and to be made a part of the transcript.

Sec. 16-79. - Modification of commission's findings and orders on additional evidence.

The commission may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The commission shall file such modified or new findings and its recommendations, if any, for the modification or setting aside of its original order.

Sec. 16-80. - Exclusive jurisdiction of court; appeal to supreme court.

The jurisdiction of the court shall be exclusive and its judgment and order shall be, when necessary, subject to review by the supreme court as provided by law, to which court appeal from such judgment and order may be made as provided by law.

Sec. 16-81. - Commission's copy of testimony; hearing on transcript.

The commission's copy of the testimony shall be available at all reasonable times to all parties without cost for examination, and for the purposes of judicial review of the order of the commission. The petition shall be heard on the transcript of the record without requirement of printing.

Sec. 16-82. - Commission's attorneys.

The commission may appear in court and be represented by the law department of the city or its own attorneys.

Sec. 16-83. - Decree for enforcement of commission's order.

If no proceeding to obtain judicial review is instituted by the complainant, intervenor or respondent within thirty (30) days from the service of an order of the commission, the commission may obtain a decree of the court for the enforcement of such order upon showing that respondent is subject to the commission's jurisdiction, and resides or transacts business within the county in which the petition for enforcement is brought.

Sec. 16-84. - Posting of statutory provisions.

Every employer, employment agency and labor union subject to this article shall post in a conspicuous place or places on his premises a notice to be prepared or approved by the commission, which shall set forth excerpts of this article and such other relevant information which the commission deems necessary to explain this article. Any person refusing to comply with the provisions of this section shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).

SECTION 2. This ordinance shall take effect upon passage.

IN CITY COUNCIL
AUG 04 2014
FIRST READING
READ AND PASSED
Louis L. Hayes CLERK
ACTING

IN CITY COUNCIL
AUG 07 2014
FINAL READING
READ AND PASSED
W. J. ... PRESIDENT
Louis L. Hayes CLERK
ACTING

I HEREBY APPROVE.
Abel Taveras
Mayor
Date: 8/8/14