

AMENDING TITLE 15 (MISCELLANEOUS), OF THE CODE OF ORDINANCES OF THE CITY OF BATON ROUGE AND PARISH OF EAST BATON ROUGE, SO AS TO ADD CHAPTER 7 (DISCRIMINATION IN PUBLIC ACCOMMODATIONS, EMPLOYMENT, AND REAL ESTATE AND HOUSING), SECTIONS 15:500, 15:501, 15:502, 15:503, 15:504 THERETO, RELATIVE TO DISCRIMINATION, DEFINITIONS, AND UNLAWFUL PRACTICES IN CONNECTION WITH SUCH DISCRIMINATION; TO PROVIDE FOR CERTAIN EXCLUSIONS; AND TO ESTABLISH THE EAST BATON ROUGE PARISH HUMAN RIGHTS COMMISSION; AND TO OTHERWISE PROVIDE WITH RESPECT THERETO.

BE IT ORDAINED by the Metropolitan Council of the Parish of East Baton Rouge and City of Baton Rouge that:

Section 1. Title 15, of the Code of Ordinances of the City of Baton Rouge and Parish of East Baton Rouge is hereby amended so as to add Chapter 7 (Discrimination in Public Accommodations, Employment, and Real Estate and Housing), Sections 15:500, 15:501, 15:502, 15:503, 15:504, thereto, which shall read as follows:

**Section 15:500. Definitions.**

(a) "Housing accommodation" means housing held or offered for sale or rent by the owner, a legal representative of the owner, a real estate broker or agent, or by any person pursuant to authorization of the owner.

(b) "Disability" means a physical or mental impairment which substantially limits one or more life activities or (a) a record of such impairment or (b) a perception of such an impairment.

(c) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(d) "Owner" means and includes an owner, lessee, sublessee, assignee, manager, agent, curator, administrator, tutor, executor, or any other person having the right of ownership or possession or the authority to sell, rent or lease any housing accommodation, including the City of Baton Rouge and Parish of East Baton Rouge.

(e) "Person" means an association, partnership, corporation or governmental entity, as well as a natural person. As applied to partnerships or other associations, "person" includes their members and as applied to corporations, "person" includes their officers.

(f) "Public accommodation" means any licensed or unlicensed business or any means of transportation which is open to, accepts or solicits the patronage of members of the general public, but does not include any place which is a bona fide private club where

the accommodations, facilities and services are restricted to the members of such club and their guests.

(g) "Public facility" means any facility owned, operated or managed by any governmental entity.

(h) "Sexual orientation" means homosexuality, heterosexuality or bisexuality.

(i) "Gender identity" means an individual's internal sense of gender, which may or may not be the same as one's gender assigned at birth.

#### **Section 15:501 Discrimination-Unlawful Practices.**

It is unlawful for any person:

(a) To discriminate against any person, either directly or indirectly, by refusing, withholding or denying to such person any of the services, accommodations, advantages, facilities or privileges offered by a public facility or place of public accommodation, by setting different rates, charges, identification procedures or requirements therefore on the basis of actual or perceived race, color, gender, disability, age, ancestry, national origin, sexual orientation, gender identity, or political or religious affiliations or by placing or attempting to place any person in a separate section or area of the premises or facilities of a public accommodation, resort, or amusement on the basis of race, color, disability, age ancestry, national origin, sexual orientation, or political or religious affiliations.

(b) To discriminate by failing or refusing to hire or by discharging an individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions or privileges of employment, to limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise affect an individual's status as an employee on the basis of that individual's actual or perceived race, color, gender, disability, age, ancestry, national origin, sexual orientation, gender identity, or political or religious affiliations.

(c) To discriminate in the selling, renting or leasing of commercial housing or real estate on the basis of actual or perceived race, color, gender, disability, age, ancestry, national origin, sexual orientation, gender identity, or political or religious affiliations.

#### **Section 15:502. Exclusions.**

Nothing in this Article shall be construed to:

(a) Restrict an employer's right to require that an employee meet bona fide job related qualifications of employment.

(b) Authorize or require employers to establish affirmative action quotas based on sexual orientation or gender identity or to make inquiries regarding the sexual orientation or gender identity of current or prospective employees.

(c) Apply to employers having fewer than fifteen (15) employees or to owner-occupied dwellings having fewer than five units.

(d) Apply to any religious or denominational organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by a religious organization, as that term is defined under 26 U.S.C. '501 (c) (3).

(e) Prohibit any business or governmental entity from having and enforcing dress codes that are not discriminatory in nature, or that do not violate the ADA Amendments Act of 2008 (ADAAA) or requests for religious accommodation.

(f) Undertake the enforcement of any law or regulation other than the provisions of this chapter. No complaint, investigation or hearing hereunder shall be a prerequisite to, preclude, or take the place of any other enforcement proceeding relative to federal, state or local laws regarding discrimination or unlawful practices in employment, housing, public accommodations or related matters.

**Section 15: 503 Establishment of the East Baton Rouge Parish Human Rights Commission**

(a) The East Baton Rouge Parish Human Rights Commission is established as a local commission on human rights. The Commission's purpose is to promote, protect and advocate for all individuals in the City-Parish freedom from discrimination because of actual or perceived race, color, gender, disability, age, ancestry, national origin, sexual orientation, gender identity, or political or religious affiliation. The local Commission may enter into a Cooperative Working Agreement (CWA) with the EEOC or with any federal or state agency, as allowed by law.

(b) There shall be five (5) members of the Commission. The Commission shall be comprised of the following:

(1) Two citizens at large of the city-parish appointed by the Metropolitan Council;

(2) One citizen at large of the city-parish appointed by the Mayor-President;

(3) One currently enrolled student nominated by either the President of Louisiana State University, the President of Southern University and A&M College System, or the Chancellor of Baton Rouge Community College appointed by the Metropolitan Council; and,

(4) One owner of a business with one hundred (100) or fewer employees.

(c) The term of the Human Rights Commission shall be two (2) years. No member shall serve more than two (2) consecutive full two (2) year terms. Two (2) members shall serve a one-year term and the remaining three (3) members shall serve for two-year terms. These initial terms shall be determined by lot. Thereafter all committee members shall serve for terms of two (2) years.

(d) The Commission may adopt such rules and regulations as it deems necessary for the regulation and conduct of its meetings.

(e) Upon formation of the commission, the commission will appoint at least one mediator or retain pro bono mediation services if a formal complaint is filed.

(f) The Commission shall designate a member to handle the intake of initial complaints which will be kept confidential. This

designation will proceed on a rotating basis under such rules as adopted by the commission.

1. If a person believes they have been discriminated against by a business, employer, or landlord located in East Baton Rouge Parish, they may contact the Commission, at which time, the Commission would provide the complainant with information on what options they have to resolve their complaint, such as contact with other state or federal agencies.
2. If the complainant desires, the complainant can request the Commission to review the complaint in a formal capacity, whereby a form will be completed and submitted for a formal screening process by the Commission. Upon review, the Commission will make a determination and recommendation as to whether the case should be referred to another agency at the state or federal level, or if pro-bono mediation can be coordinated between the complainant and the alleged violator. The screening procedure will be a confidential and impartial process and serve the purpose of eliminating any cases that do not truly meet the criteria for discrimination as laid out by this ordinance. The Commission will not make any determinations as to whether discrimination took place, however, it will recommend which avenues are potentially available for the complainant.
3. If the Commission intake member reviewing the complaint determines, based on the information received from the Complainant, that the case does meet criteria identified in the instant ordinance, it will refer the complaint for either pro-bono mediation or will recommend for referral to another agency at the state or federal level.
4. If these procedures have been exhausted and no remedy has been granted or the matter assumed by another state or federal agency, then pursuant to applicable state and federal law, the complainant may be able to proceed to filing suit in the appropriate jurisdiction.
5. All complaints that undergo the screening process will be documented and summarized (with appropriate information withheld for confidentiality) in a report to the metro council. All complaints will be kept in accordance with the rules applicable for Louisiana Records retention law, subject to the applicable Louisiana Public Records Act.

(g) Upon determining that the initial complaint meets the criteria for qualifying as a formal complaint, the formal complaint shall be referred to the appropriate agency or the Commission shall coordinate mediation in an effort to resolve the matter.

(h) The commission shall:

- (1) Obtain certification/annual training from the State of Louisiana Commission on Human Rights;
- (2) Advise and consult with the Metropolitan Council on all matters involving discrimination, and devise practices to promote equal opportunity;

(3) Serve in an advisory and consulting capacity to all City-Parish departments, commissions, boards, and agencies to assure effective compliance with non-discrimination policies and orders, and recommend to City-Parish personnel measures to improve the ability of various departments and agencies to insure equal protection of against discrimination;

(4) Recommend to the Metropolitan Council members ordinances and resolutions to aid in programs designed to eliminate prejudice and discrimination and encourage community support for such ordinances and resolutions;

(5) Conduct programs for the purpose of informing the general public, businesses, organizations and other entities regarding matters of discrimination and of bettering human relationships within the community.

(6) Accept grants, gifts, bequests, public or private, to help finance its activities.

(7) Submit an annual report of its activities during the preceding year to the metropolitan council no later than January of each year.

#### **Section 15:504 Remedies**

(a) A person who believes they have been discriminated against may contact the commission to assist in resolving the dispute prior to potentially initiating judicial action.

(b) Any cause of action provided for in Louisiana law shall be subject to a prescriptive period of one (1) year from the date of the alleged violation. However, this one (1) year period shall be suspended, but only for a six-month period, during the pendency of any administrative review or investigation of the claim conducted by the Louisiana Commission on Human Rights. To preserve a claim under state law, a person must file a lawsuit in a court of proper jurisdiction within one (1) year of the discriminatory treatment or within one and a half (1 ½) years of the date the person believes they were discriminated against, as long as the person has filed with the Louisiana Commission on Human Rights or the EEOC within 300 days of the adverse treatment.

(c) Nothing in this ordinance shall be seen as preventing any aggrieved person from filing suit under State or Federal anti-discrimination laws, regardless of the findings of the local Commission.

Section 2. This ordinance shall be effective 60 days following adoption by the Metropolitan Council.

Section 3. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of

this ordinance, to the validity of its application to other persons or circumstances.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.