

1 Introduced by Council Members Bowman, Hazouri and Love and amended
2 by the Finance Committee and amended on the Floor of Council:

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5 **ORDINANCE 2017-15-E**

6 AN ORDINANCE CONCERNING EQUAL OPPORTUNITY AND
7 EXPANDING THE CITY'S EQUAL RIGHTS LAWS TO
8 PROHIBIT DISCRIMINATION BASED UPON SEXUAL
9 ORIENTATION AND GENDER IDENTITY, AMENDING
10 SECTION 60.105 (FUNCTIONS, POWERS AND DUTIES),
11 *ORDINANCE CODE*; AMENDING SECTION 400.101
12 (STATEMENT OF POLICY), *ORDINANCE CODE*; AMENDING
13 CHAPTER 402 (EQUAL EMPLOYMENT OPPORTUNITY),
14 *ORDINANCE CODE*; AMENDING CHAPTER 406 (PUBLIC
15 ACCOMMODATIONS), *ORDINANCE CODE*; AMENDING
16 CHAPTER 408 (FAIR HOUSING), *ORDINANCE CODE*;
17 PROVIDING LEGISLATIVE INTENT; PROVIDING FOR
18 EXEMPTION FOR RELIGIOUS INSTITUTIONS; PROVIDING
19 FOR EXEMPTION FOR SMALL EMPLOYERS; PROVIDING
20 FOR SINGLE-SEX FACILITIES AND DRESS CODES;
21 AMENDING SECTIONS 402.401, 402.402, 406.403 AND
22 408.801(G), *ORDINANCE CODE*, TO ELIMINATE
23 IMPRISONMENT AS A PENALTY; PROVIDING FOR
24 INTERPRETATION; AUTHORIZING THE OFFICE OF
25 GENERAL COUNSEL TO MAKE CODIFICATION CHANGES;
26 PROVIDING AN EFFECTIVE DATE.

27
28 **WHEREAS**, the City of Jacksonville is an inclusive and
29 welcoming community, wherein no discrimination should occur; and

30 **WHEREAS**, City of Jacksonville routinely competes with other

1 cities and counties, within Florida, in other states and
2 internationally, in the areas of economic development; and

3 **WHEREAS**, the City of Jacksonville seeks to be competitive in
4 attracting new industries, corporate relocations and expansions,
5 medical facilities, educational opportunities, conventions,
6 sporting, entertainment and cultural events, tourism, employee
7 recruitment and retention, and in other important categories; and

8 **WHEREAS**, the City of Jacksonville has great respect for the
9 many diverse religious communities represented by local houses of
10 worship and faith leaders, each of which and all of whom have been
11 carefully considered and provided for herein with appropriate
12 exemptions; and

13 **WHEREAS**, The City of Jacksonville is home to thriving small
14 businesses that form the backbone of the local economy, the needs
15 of which have been carefully considered and provided for herein
16 with appropriate exemptions; and

17 **WHEREAS**, The City of Jacksonville recognizes and appreciates
18 the contributions of the members of its lesbian, gay, bisexual and
19 transgender ("LGBT") community, and finds that a strong LGBT
20 community is a vital thread in the diverse tapestry of this City;
21 now therefore

22 **BE IT ORDAINED** by the Council of the City of Jacksonville:

23 **Section 1. Legislative Findings.**

24 It is hereby ascertained, represented, determined and declared
25 that:

26 (a) The Duval County School Board passed and enacted human
27 rights protections for its students, faculty, administrators, and
28 other employees in June 2012.

29 (b) In March 2016, after leading three community conversations
30 on the topic, Mayor Lenny Curry by departmental directive required
31 the City of Jacksonville to update its equal employment opportunity

1 policy to prohibit discrimination on the basis of an applicant or
2 employee's "sexual orientation, gender identity or expression," a
3 requirement which Mayor Curry also extended to vendors that
4 contract with the City.

5 (c) Following Mayor Lenny Curry's lead, Sheriff Mike Williams
6 extended human rights protections to all employees of the
7 Jacksonville Sheriff's Office. In addition, several key independent
8 authorities, namely JEA, the Jacksonville Transportation Authority,
9 the Jacksonville Port Authority, and the Jacksonville Aviation
10 Authority have done the same.

11 (d) The Department of Defense, including the United States
12 Navy, Marines, Coast Guard, Army, and Air Force, adopted policies
13 and procedures that protect LGBT service-members, and their
14 families, from discrimination.

15 **Section 2. Amending Sections 60.105, 400.101, 400.301,**
16 **402.102, 402.107(g) (1), 402.107(g) (3), 402.201, 402.202, 402.203,**
17 **402.204, 402.206, 402.210, 402.211, 406.102, 406.104(g) (1),**
18 **406.104(g) (3), 406.201, 408.102, 408.204, 408.401, 408.402,**
19 **408.403, 408.404, 408.406, and 408.407, Ordinance Code.**

20 The foregoing sections of the Ordinance Code are hereby
21 amended as follows: wherever protected categories are listed, that
22 sexual orientation and gender identity, as defined in Section 3
23 below, shall be added to the list.

24 **Section 3. Amending Sections 402.107, 406.104, and**
25 **408.105, Ordinance Code.**

26 The foregoing sections of the Ordinance Code are hereby
27 amended as follows:

28 (a) Wherever definitions are provided, the definition of
29 sexual orientation shall be added and shall mean an individual's
30 actual or perceived orientation as heterosexual, homosexual, or
31 bisexual.

1 (b) Wherever definitions are provided, the definition of
2 gender identity shall be added and shall mean the gender-related
3 identity, appearance, or expression of a person. Gender identity
4 may be demonstrated by a person's consistent and uniform assertion
5 of a particular gender identity, appearance or expression, or by
6 any other evidence that a person's gender identity is sincerely
7 held, provided, however, that gender identity shall not be asserted
8 for any improper, illegal or criminal purpose.

9 **Section 4. Exemption for Religious Institutions.**

10 Religious organizations, including but not limited to
11 churches, synagogues, mosques, and schools of religious instruction
12 and non-profit institutions or organizations affiliated therewith,
13 are exempt from the provisions contained herein. For the purposes
14 of Ordinance 2017-15-E, the phrase "religious organization" shall
15 include "religious corporation, association or society." The term
16 "religious corporation, association or society" shall be
17 interpreted consistent with Section 2000e-(1)(a), United States
18 Code.

19 **Section 5. Exemption for Small Employers.**

20 Since 1964, civil and human rights statutes at all levels of
21 government have exempted employers with fewer than 15 employees.
22 The same standard applies in the City of Jacksonville with respect
23 to employment discrimination claims under this provision.

24 **Section 6. Single-Sex Facilities and Dress Codes.**

25 (a) Nothing herein shall prohibit a business or a place of
26 public accommodation from providing single-sex restrooms, locker
27 rooms, shower facilities, bath houses, health spas, dormitory
28 lodging facilities and similar facilities that are by their nature
29 distinctly private.

(b) Nothing herein shall prohibit a business from establishing and enforcing a dress code for its employees, provided that such dress code shall not be based upon sex stereotypes.

Section 7. Amending Chapter 402 (Equal Employment Opportunity), Part 4 (Penalties), Ordinance Code. Chapter 402 (Equal Employment Opportunity), Part 4 (Penalties), *Ordinance Code*, is hereby amended to read as follows:

CHAPTER 402. EQUAL EMPLOYMENT OPPORTUNITY

* * *

PART 4. PENALTIES

* * *

Sec. 402.401. Violations; penalty.

A person who, knowingly and willfully:

* * *

Shall, upon conviction thereof, be punished by fine not to exceed \$500 ~~or by imprisonment for not exceeding 90 days, or by both a fine and imprisonment.~~

Sec. 402.402. Malicious complaints.

A person who files or procures the filing of a complaint with the Commission alleging one or more unlawful employment practices when, at the time of filing the complaint, the person knew or reasonably should have known that the complaint was false and the person filed or procured the filing of the complaint maliciously or with intent to disrupt the business operations of the person against whom the complaint was filed shall, upon conviction thereof, be punished by a fine not to exceed \$500 ~~or by imprisonment not to exceed 90 days, or by both a fine and imprisonment.~~

* * *

Section 8. Amending Chapter 406 (Public Accommodations), Part 4 (Procedures for public accommodations complaint), Ordinance

1 **Code.** Chapter 406 (Public Accommodations), Part 4 (Procedures for
2 public accommodations complaint), *Ordinance Code*, is hereby amended
3 to read as follows:

4 **CHAPTER 406. PUBLIC ACCOMMODATIONS**

5 * * *

6 **PART 4. PROCEDURES FOR PUBLIC ACCOMMODATIONS COMPLAINT**

7 * * *

8 **Sec. 406.403. Subpoenas.**

9 In support of the above, the following procedures shall apply:

10 * * *

11 (e) Any person who, with intent thereby to mislead the Commission
12 or the Director, makes or causes to be made any false entry or
13 statement of fact in any report, account, record or other
14 document submitted to the Commission pursuant to its subpoena
15 or other order, or shall willfully neglect or fail to make or
16 cause to be made full, true and correct entries in such
17 reports, accounts, records or other documents, or shall
18 willfully mutilate, alter, or by any other means falsify any
19 documentary evidence, may be fined by the County Court of
20 Duval County, not more than \$500 ~~or imprisoned not more than~~
21 ~~60 days or both.~~

22 * * *

23 **Section 9. Amending Chapter 408 (Fair Housing), Part 8**
24 **(Penalties), Ordinance Code.** Chapter 408 (Fair Housing), Part 8
25 (Penalties), *Ordinance Code*, is hereby amended to read as follows:

26 **CHAPTER 408. FAIR HOUSING**

27 * * *

28 **PART 8. PENALTIES**

29 * * *

30 **Sec. 408.801. Violations; penalty.**

31 A person who, knowingly and willfully:

* * *

(g) ~~Shall, upon conviction thereof, be punished by a fine not to exceed \$500 or by imprisonment for not exceeding 90 days, or by both a fine and imprisonment. A conviction based upon a violation order under this Section shall be a bar to further prosecutions for alleged violations arising out of substantially the same circumstances.~~

* * *

Section 10. Interpretation.

Any ordinance or Charter provision or part of any Ordinance or Charter provision in conflict with the provisions hereof is repealed to the extent of the conflict. Should any part of this Ordinance 2017-15-E be held invalid by a court of competent jurisdiction, the remainder of this Ordinance 2017-15-E shall continue in full force and effect and it shall be presumed that this Ordinance 2017-15-E was enacted without the invalid provision.

Section 11. Authorizing the Office of General Counsel to make Codification changes allowed by this Ordinance.

The Office of General Counsel is authorized to take all necessary action in connection with this legislation, to execute the finalization and codification of the legislation to effectuate the purposes of this Ordinance as recommended by the Council Committees and enacted by Council, without further Council action, provided such changes implement the ordinance as approved by 2017-15-E. All such finalization and codification shall be subject to appropriate legal review and approval by the General Counsel, or designee, and all other appropriate official action required by law.

Section 12. Effective Date. This Ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor's signature.

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Form Approved:

 /s/ Paige Hobbs Johnston

Office of General Counsel

Legislation Prepared by: Wendy E. Byndloss

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