

AN ORDINANCE TO AMEND CHAPTER 35 OF THE CITY CODE REGARDING HUMAN RIGHTS

#4473

Sponsors:

**Council
President
Shabazz**

**Council
Members
Walsh
Chukwuocha
Dixon
Oliver
Williams
Harlee**

WHEREAS, pursuant to Sections 1-103 and 1-104 of the City Charter, the Wilmington Civil Rights Commission was established to address issues of discriminatory treatment resulting from the delivery or provision of City government services or the implementation or effect of City policies; and

WHEREAS, City Council recognizes the fundamental and critical role of promoting human rights and addressing discrimination at the local level; and

WHEREAS, City Council seeks to declare itself a “Human Rights City” and to support and promote the local adoption of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and

WHEREAS, the Wilmington Civil Rights Commission is presently inactive but should be reinstated, and this entity could help the City protect the full range of universal human rights enumerated in the Universal Declaration of Human Rights (UDHR) and help implement the principles of CEDAW on a local level; and

WHEREAS, City Council, in this spirit, seeks to amend the composition and function of the Civil Rights Commission in order to incorporate provisions of UDHR and CEDAW, and to enhance the effectiveness of this important body.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 35 of the City Code is hereby amended by amending Section 35-37 thereof by deleting the stricken language and adding the underlined language as follows:

Section 35-37. Composition, qualifications.

(a) The civil rights commission shall be composed of seven residents of the city who shall be representative of the many ethnic groups in the city and men and women, without regard to sexual orientation, race, age, religion, gender, gender identity, physical or mental disability, marital status, color, national origin, or economic or family status (including source of income). Five of the members of the commission shall be appointed by the mayor. The remaining two members of the commission shall be appointed by the president of city council. The proposed members of the commission shall hold no other public office or paid public employment and shall be subject to confirmation by resolution of city council, approved by a majority of all members of the city council.

(b) Members of the commission shall be persons who have actively demonstrated an interest and expertise in efforts to promote diversity, equality, equity and understanding of civil and human rights, and to dismantle injustice, discrimination, bigotry, hatred and harassment within the city. Potential members of the commission should demonstrate the following qualities associated with a "human rights defender," as defined by the United Nations Human Rights Office of the High Commissioner, and as evidenced through the production of a resume, recommendation letter(s) and any other available documentation of the following:

- (1) A commitment to defending the human rights of all people without regard to sexual orientation, race, age, religion, gender, gender identity, physical or mental disability, marital status, national origin, or economic or family status (including source of income).
- (2) A commitment to peaceful, nonviolent defense of human rights.
- (3) A documented history of protecting and promoting human rights in either a paid or voluntary capacity. Examples include:
 - i. Collecting and disseminating information on human rights violations on a local, national and international level.
 - ii. Supporting victims of human rights violations.
 - iii. Working to secure accountability to established human rights standards.
 - iv. Supporting better governance and government policy for all.

- v. Contributing to the implementation of human rights treaties.
- vi. Providing human rights education and training.

SECTION 2. Chapter 35 of the City Code is hereby amended by deleting the previous Section 35-38 in its entirety, and replacing it with the new Section 35-38 as follows:

Section 35-38. Terms, meetings and procedures.

- (a) Members of the civil rights commission shall serve a three-year term. No member of the commission shall serve more than two terms, whether consecutive or not. Vacancies on the commission shall be filled in the same manner as original appointments within 90 days of the position becoming vacant.
- (b) The officers of the commission shall be a chairperson and a vice chairperson elected by the commission from among the members of the commission. The chairperson shall preside over meetings of the commission and shall have the right to vote. The vice chairperson shall perform the duties of the chairperson in the absence or disability of the chairperson. The officers shall serve for a one-year term.
- (c) The commission shall meet, at a minimum, on a quarterly basis with such additional meetings as it deems necessary to properly perform its duties.
- (d) Meetings of the commission shall be open and accessible to the public. The commission shall make every reasonable attempt to maintain confidentiality of complainants who have requested anonymity, subject to the applicable provisions of state and federal law.
- (e) At the sole discretion of the commission's officers, provisions may be made for participation of members by video-conference, in accordance with Title 29 of the Delaware State Code.
- (f) The commission may establish rules for its conduct and procedure.
- (g) The commission may approve a leave of absence, not to exceed three months, for a commissioner who is temporarily unable to fulfill his or her duties.
- (h) A majority of the commission, not counting members on an approved leave of absence, shall constitute a quorum.

SECTION 3. Chapter 35 of the City Code is hereby amended by amending Section 35-39 thereof by adding the underlined language as follows:

Section 35-39. General Authority.

The civil rights commission shall be authorized to:

- (a) Address issues of allegedly discriminatory treatment on the basis of sexual orientation, race, age, religion, gender, gender identity, physical or mental disability, marital status, national origin, or economic or family status (including source of income) resulting from the delivery or provision of city government services or the implementation or effect of city policies. In the performance of its duties, the commission may coordinate with community organizations such as the National Conference for Community and Justice, the American Civil Liberties Union, and the National Association for the Advancement of Colored People. If the commission is in receipt of information regarding situations brought to its attention involving circumstances which, in the commission's judgment, could lead to acts of violence against members of any minority group or other group allegedly receiving discriminatory treatment, the commission may attempt to alleviate the conditions or circumstances involved in such situations; provided, however, the commission shall not interfere in any investigation or activity by federal, state or city law enforcement officials.
- (b) Develop, maintain and publicize a formal channel of communication, which may include a telephone number, email address, webpage or mailing address, through which city residents and others may contact and correspond with the commission regarding issues of allegedly discriminatory treatment resulting from the delivery or provision of city government services or the implementation or effect of city policies.
- (c) Institute and conduct educational and other outreach programs to promote the equal rights and opportunities of all persons, without regard to sexual orientation, race, age, religion, gender, gender identity, physical or mental disability, marital status, national origin, or economic or family status (including source of income). The commission shall conduct at least one educational and/or other outreach program each year. In the performance of its duties, the commission may cooperate with interested residents, private agencies including foundations, colleges and universities, and agencies of the federal, state and local governments.
- (d) Conduct activities related to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as enumerated in section 35-168.
- (e) This Section does not create a private cause of action against the city, the civil rights commission, or any city employee, elected city official, or any other city entity. This Section shall not be construed as creating any private cause of action.

SECTION 4. Chapter 35 of the City Code is hereby amended by amending Section 35-40 thereof by deleting the stricken language and adding the underlined language as follows:

Section 35-40. Reports, recommendations.

- (a) ~~From time to time~~ Quarterly, the civil rights commission ~~may~~ shall report to and make recommendations, in writing, to the mayor and the city council regarding issues ~~which have been~~ brought to the commission's attention which involve alleged instances of discriminatory treatment of individuals or groups of individuals.
- (b) On an annual basis, the commission shall report to and make recommendations to the mayor and city council, in writing, regarding city services and policies to further protect and fulfill the full range of universal human rights as enumerated in the Universal Declaration of Human Rights. The commission may coordinate with public and private agencies, including nonprofit organizations, foundations, colleges and universities, to conduct research necessary for its recommendations.

SECTION 5. Chapter 35 of the City Code is hereby amended by deleting the previous Section 35-45 in its entirety, and replacing it with the new Section 35-45 as follows:

Section 35-45. Working groups.

The commission may create working group(s) to help achieve its goal of protecting and fulfilling the full range of universal human rights as enumerated in the Universal Declaration of Human Rights.

- (a) Each working group shall be led by a commission member.
- (b) Membership, powers and rules of conduct and procedure of the working group(s) shall be determined by a vote of the commission.

SECTION 6. Chapter 35 of the City Code is hereby amended by adding a new Article V as follows:

ARTICLE V. LOCAL IMPLEMENTATION OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

Section 35-167. Goal of the City to Implement Principles of the CEDAW.

- (a) Statement of goal. It shall be the goal of the city to support and advocate for the local implementation of the principles underlying the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) by addressing, as applicable and practicable, discrimination against women and girls in areas including economic development, violence against women and girls, and health care.
- (b) No private cause of action. Article V does not create a private cause of action against the city, the civil rights commission, or any city employee, elected city official, or any other city entity. Article V shall not be construed as creating any private cause of action.

Section 35-168. Local Implementation of CEDAW.

In keeping with its goal to support and advocate for the local implementation of CEDAW principles, the city recognizes the connection between racial discrimination, as articulated in the International Convention on the Elimination of All Forms of Racial Discrimination, and discrimination against women. It shall be a goal of the city to take steps, as applicable and practicable, to address and alleviate discrimination against women in areas including employment practices, allocation of funding and delivery of direct and indirect services.

- (a) Economic Development. It shall be the goal of the city to, as applicable and practicable:
- (1) Take all appropriate measures to eliminate discrimination against women and girls in employment and other economic opportunities, including, but not limited to, ensuring:
 - i. The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment and the right to receive access to and vocational training for nontraditional jobs;
 - ii. The right to promotion, job security and all benefits and conditions of service, regardless of parental status, particularly encouraging the appointment of women to decision-making and management positions;
 - iii. The right to equal remuneration, including benefits, and to equal pay for work of equal value;
 - iv. The right to the protection of health and safety in working conditions, including supporting efforts not to

purchase sweatshop goods, regular inspection of work premises, and protection from violent acts in the workplace.

- (2) Encourage the provision of necessary social services to enable parents to combine family obligations with work responsibilities and participation in public life.
- (3) Encourage the use of public education and all other available means to urge financial institutions to facilitate women's access to bank accounts, loans, mortgages, and other forms of financial services.

(b) Violence Against Women and Girls. It shall be the goal of the city, as applicable and practicable, to:

(1) Pursue all appropriate measures to prevent and redress sexual and domestic violence against women and girls, including, but not limited to:

- i. Continued police enforcement of criminal statutes;
- ii. Supporting the provision of appropriate protective and support services for survivors;
- iii. Providing gender-sensitive training for city employees regarding violence against women and girls; and
- iv. Supporting the provision of rehabilitation programs for perpetrators of violence against women or girls.

(2) Take all necessary measures to protect women and girls from sexual harassment in their places of employment, school, public transportation, and any other places where they may be subject to harassment, provided that such spaces are within the realm of control and influence of city authorities.

(3) Continue to support and promote the investigation by law enforcement of violent attacks against sex workers, and take efforts to ascertain the level of coercion involved, in particular where there is evidence of trafficking in women and girls.

(4) Ensure that all public works projects include measures, such as adequate lighting, to protect the safety of women and girls, as well as all residents and visitors.

(c) Health Care. It shall be the goal of the city to, as applicable and practicable, promote the provision of information about, and access to, adequate health care facilities and services, according to the needs of all communities.

(d) Role of the Civil Rights Commission. The civil rights commission shall conduct activities in accordance with the local implementation of the provisions set forth above and shall monitor the city's efforts. Such activities may, from time to time, include the promotion of training

opportunities for city departments, as well as coordination with public and private agencies, including nonprofit organizations, foundations and institutions of higher education.

SECTION 7. In an effort to more fully implement Section 6 of this Ordinance, the City shall consider conducting, or causing to be conducted, a gender analysis of City departments, programs and policies, to potentially include (a) the collection of disaggregated data; (b) an evaluation of gender equity in the entity's operations, including its budget allocations, delivery of direct and indirect services and employment practices; and (c) the entity's integration of human rights principles and the local principles of CEDAW. Such a process, if undertaken, should include the development of an action plan with recommendations and specific steps that can be taken to address any deficiencies and integrate human rights principles and the local principles of CEDAW into the City's operation and functions.

SECTION 8. This Ordinance shall become effective 90 days following passage by the City Council and approval by the Mayor.

First Reading.....February 1, 2018
Second Reading....February 1, 2018
Third Reading..... May 17, 2018

Passed by City Council, May 17, 2018

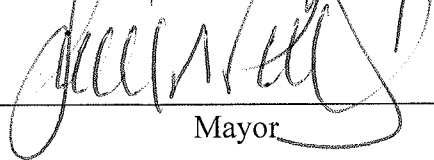


Resident of City Council

ATTEST: 

City Clerk

Approved this 07 day of July, 2018



Mayor

SYNOPSIS: This Ordinance amends Chapter 35 of the City Code to expand the authority and enhance the structure of the Wilmington Civil Rights Commission to help protect and fulfill the full range of universal human rights as enumerated in the Universal Declaration of Human Rights (UDHR) and to locally implement the principles of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Ordinance also provides more specific guidelines to govern the Commission's structure, composition and procedures.

FISCAL IMPACT STATEMENT: Provided the historical existence of the Civil Rights Commission and its citizen composition, as well as overlapping standards encompassed in the operations of the City's Department of Human Resources, this ordinance has no anticipated negative fiscal impact.

POLICY STATEMENT: This proposed Ordinance is designed to help the City of Wilmington implement the principles of the Universal Declaration of Human Rights and the United Nations Convention on Elimination of All Forms of Discrimination Against Women on a local level. This Ordinance has been driven by substantial research conducted on Human Rights Cities and Cities for CEDAW, and is intended to enhance the quality of life for Wilmington's residents and visitors.