

AN ORDINANCE TO AMEND CHAPTER 35 OF THE CITY CODE TO INCLUDE GENDER IDENTITY AS A PROTECTED CLASS

#0154

Sponsor:

**Council
Member
Oliver**

WHEREAS, the City of Wilmington is committed to ensuring equality of rights under the law and rejects discrimination in all forms; and

WHEREAS, in 2013, the Delaware General Assembly enacted the Gender Identity Nondiscrimination Act, making gender identity a protected class and banning discrimination against a person based on gender identity in housing, employment, public works contracting, public accommodations, and insurance; and

WHEREAS, Chapter 35 of the City Code currently establishes protections against discrimination, bias-related offenses, and ethnic intimidation based on race, religion, ethnicity, national origin and sexual orientation; and

WHEREAS, in 2024, the State of Delaware expanded the definition of sexual orientation to include asexuality and pansexuality; and

WHEREAS, City Council desires to align the City Code provisions with state law to ensure explicit local protections against discrimination on the basis of gender identity, align the City's definition of "sexual orientation" with the State's; and provide clarity on the distinction between "gender identity" and "sexual orientation"; and

WHEREAS, adding "gender identity" to the list of protected classes in Chapter 35 of the City Code reaffirms the City's commitment to equal treatment and the provision of basic human rights for all.

**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 35-1 thereof by deleting the stricken language and adding the underlined language to read as follows:

Sec. 35-1. Bias-related offenses.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Bias-related offense* means an offense or unlawful act committed by an individual person or group of persons against another individual person or group of persons, or the property of the same, and which is motivated in whole or in part by the race, religion, ethnicity, national origin, ~~or~~ sexual orientation, or gender identity of the person or group and such offenses may include but shall not be limited to the offenses of "ethnic intimidation" and "institutional vandalism."
- (2) *Ethnic intimidation* means tortious conduct performed with the intent to injure another person or group of persons, or his property, because of such other person's or group's race, religion, ethnicity, national origin, ~~or~~ sexual orientation, or gender identity.
- (3) *Gender Identity* means a gender-related identity, appearance, expression, or behavior of a person, regardless of the person's assigned sex at birth.

(34) *Institutional vandalism* means the intentional desecration, as defined in 11

Del. C. § 1331, vandalizing, defacing, defiling or otherwise damaging of:

- a. Any church, synagogue or other communal facility regularly used for religious worship, meditation, contemplation or other related purposes.
- b. Any cemetery, mortuary or other facility used for the purpose of burial or memorializing the dead.
- c. Any courthouse, historic monument or landmark, museum or civic shrine, including, without limitation, the Public Building and the Louis L. Redding City/County Building.
- d. The grounds occupied by any facility set forth in subsection (a)(3)a., b. or c. of this section.
- e. Any property located in any facility set forth in subsection (a)(3)a., b. or c. of this section.

(5) *Sexual orientation* includes heterosexuality, homosexuality, bisexuality, asexuality, or pansexuality.

(e) *Statistical reporting.* The police department shall collect information relating to crimes, ordinance violations, and other incidents occurring within the city in which the evidence regarding the offense indicates that it was motivated by bigotry or bias related to the race, religion, ethnicity, national origin, ~~or~~ sexual orientation, or gender identity of the individuals or groups who were the victims of the crimes, ordinance violations or other incidents. The police department shall develop a system by which the required reporting shall be accomplished, subject to the approval of the administrative board.

SECTION 2. Chapter 3, Article III is hereby amended by adding the underlined language to read as follows:

ARTICLE III. – FAIR HOUSING

Sec. 35-77. – Purpose.

The provisions of this article are intended to eliminate, as to housing offered to the public for sale or rent, discrimination based upon race, age, marital status, creed, color, sex, sexual orientation, gender identity, handicap, national origin or economic status as a welfare recipient, person dependent on fixed income or as a parent with a minor child or minor children.

Sec. 35-78. – Unlawful Acts.

Except as provided in section 35-80, it shall be an unlawful practice for any person because of race, age, marital status, creed, color, sex, sexual orientation, gender identity, handicap, national origin, or economic or family status to:

- (5) Make, print, publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based upon race, age, marital status, creed, color, sex, sexual orientation, gender identity, handicap, national origin, status as a welfare recipient or of dependency on other fixed income, or as a parent with minor children or an intention to make any such preference, limitation or discrimination.

(7) Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, age, marital status, creed, color, sex, sexual orientation, gender identity, handicap, national origin or status as a welfare recipient or of dependency on other fixed income, or as a parent with minor children.

SECTION 3. Chapter 35, Article IV is hereby amended by adding the underlined language to read as follows:

ARTICLE IV. – EQUAL OPPORTUNITY IN EMPLOYMENT AND CITY CONTRACTS

Sec. 35-111. – Equal opportunity policy.

(b) *Goals.* The city government in carrying out its responsibilities and in the conduct of its affairs, shall endeavor to prevent and eliminate any and all discrimination in any action by the city government itself, or by its agents, boards, commissions, and other authorized entities on the basis of race, creed, color, national origin, age, religion, sex, sexual orientation, gender identity, marital status or economic status, or handicap or other disability. The city policy may include actions to assist disadvantaged persons who have been actual victims of discriminatory practices or whose ability to compete in the free enterprise system has been impaired due to diminished opportunities resulting from past discrimination or neglect and may include identifying demographic subgroups of disadvantaged individuals by race or ethnic origin whenever current local statistics confirm the existence of unemployment rates among any of such subgroups that are more than 50 percent above the prevailing state-wide

unemployment rate, in order that the city may attempt to assist those disadvantaged individuals who are chronically unemployed.

The city shall establish an active policy of encouraging, soliciting and assisting new, small and local businesses, including those of economically disadvantaged individuals, in obtaining employment and in conducting business with the city, its agents and corporations created by the city for public purposes. The city shall establish goals deemed appropriate and sustainable and constituting percentages of the total dollar amount of contracts for businesses in the categories of construction contracts, professional service contracts, and contracts for the purchase of goods and services and of materials, supplies and equipment. Periodic reports shall be submitted to the office of equal opportunity contract compliance in order to maintain current statistics regarding the composition of the work force and of the businesses operating in various industries in which the city conducts business. The office shall maintain current data to determine the number and extent of participation, or of any disparity in participation, in employment and business opportunities of disadvantaged individuals and disadvantaged businesses qualified to work or do business in different industries.

Sec. 35-162. – Prohibited acts.

It shall be unlawful for any city officer or employee, or for any other person, doing business or seeking to do business, with the city as a contractor or subcontractor in any city construction contract, or in any city purchasing contract, to discriminate or engage in any discriminatory practice, or to acquiesce in any of the same, in any aspect of such contract against any person on the basis of his race, national origin or disadvantaged status. No person doing business with, or seeking to do business with the city shall refuse to do business with

any person because of his race, national origin, sexual orientation, gender identity, or disadvantaged status, nor with any business enterprise because of the race, ~~or~~ national origin, sexual orientation, gender identity, or disadvantaged status of the persons comprising 51 percent or more of the ownership or control of such business enterprise, or, if publicly held, the persons owning 51 percent or more of the stock of such business enterprise.

Sec. 35-164. – Additional remedies.

The city solicitor, or any other person allegedly specifically damaged by a violation of this section may, in addition to all other remedies provided by law, institute proceedings or appropriate actions to prevent, enjoin or abate any unlawful discrimination or discriminatory practice that is in violation of this section. In any instance in which the city determines that there has been a pattern of discrimination or discriminatory practices by one or more persons in city construction contracts, or in city purchasing contracts, or in any of the subcontracting or hiring opportunities thereof or incident thereto, to exclude or refuse to do business with any person on the basis of race, national origin, sex ~~or~~, sexual orientation, or gender identity, the city shall take all actions at law or in equity to dismantle such pattern or system.

Sec. 35-165. – Prohibited acts; grants.

It shall be unlawful for any city officer or employee, or for any person doing business or seeking to do business with the city in regards to grants or donations made by the city, to discriminate or engage in any discriminatory practice, or to acquiesce in any of the same, in any aspect of such grant or donation, against any person on the basis of his race, creed, color, national origin, age, religion, sex, sexual orientation, gender identity, marital status, economic status, or handicap or other disability. No person doing business with or seeking to do business

with the city shall refuse to do business with any person because of his race, creed, color, national origin, age, religion, sex, sexual orientation, gender identity, marital status, economic status, or handicap or other disability.

SECTION 4. This Ordinance shall become effective immediately upon its date of passage by the City Council and approval by the Mayor.

First Reading.....December 11, 2025
Second Reading...December 11, 2025
Third Reading.....

Passed by the City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this _____ day of _____, 2026

Mayor

SYNOPSIS: This Ordinance amends Chapter 35 of the Wilmington City Code to explicitly include gender identity as a protected class under the City Code's Human Rights provisions. The amendment aligns the City Code with Delaware's Gender Identity Nondiscrimination Act of 2013 and reaffirms Wilmington's commitment to equality and provision of basic human rights. It also updates the definition of "sexual orientation" to align with recent Delaware law.

FISCAL IMPACT: There is no expected fiscal impact.