



ORDINANCE 2021-08

ORDINANCE PROHIBITING DISCRIMINATION IN PUBLIC ACCOMMODATIONS AND TRANSPORTATION

WHEREAS, the Town of Davidson welcomes all people and recognizes the importance of diversity, equity, inclusion and the importance of all people being free from discrimination based on race, natural hair or hairstyles, ethnicity, creed, color, sex, pregnancy, marital or familial status, sexual orientation, gender identity or expression, national origin or ancestry, citizen or noncitizen, military or veteran status, religious belief or non-religious belief or disability; and

WHEREAS, the purpose and intent in enacting this ordinance is to promote public welfare, principles of inclusion, sensitivity, and equal treatment for all through education, expression, resolution and if necessary, enforcement; and

WHEREAS, the Town recognizes that pursuant to North Carolina General Statute 160A-174(a), "a city may by ordinance define, prohibit, regulate, or abate acts, omissions or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city."

FURTHERMORE, pursuant to North Carolina Statute 160A-4, "it is the policy of the General Assembly that cities of the state should have adequate authority to execute the powers, duties, privileges and immunities conferred upon them by law. To this end, the provisions of this Chapter shall by broadly construed and grants of power shall be construed to include any additional and supplementary powers that are reasonably necessary or expedient to carry them into execution and effect;"

WHEREAS, it is the intent of this ordinance to provide uniform legal protections to protective classes in the areas of public accommodations to all who live, reside, and visit the town of Davidson.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF DAVIDSON,

A. Discrimination means any disadvantage, difference or distinction in the solicitation, selection, or service to, or treatment of, a vendor, supplier, subcontractor, or customer based on a protected class status or based on any otherwise unlawful use of personal or individual characteristics.

(1) It shall be unlawful to deny or discriminate against any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and therefore accommodations because of a Protected class.

B. CONCILIATION OF COMPLAINTS

Town will enter into an agreement with an established, reputable community relations committee such as the Community Relations Committee of Charlotte (CRC), or similar entity with experience and training in conciliation of discrimination in North Carolina.

Within the limitations provided by law, this committee will be contracted with authority to:

- (1) Effectuate the purposes and policies of this ordinance in a way to reach a conciliatory solution between parties;
- (2) Receive, initiate, seek to conciliate, and hold hearings on complaints alleging violations of this ordinance;
- (3) If the committee finds that there is no reasonable cause to believe the respondent has violated the ordinance, or if no resolution is reached, the committee shall, within a reasonable time, inform the complaining party, the town attorney, and the respondent of the conciliation committee's findings and shall refer the complaint to the town attorney for any further action or dismissal if the town attorney deems appropriate.
- (4) Remedies and penalties for violation include: civil forfeiture in amounts to be determined and injunctive relief.

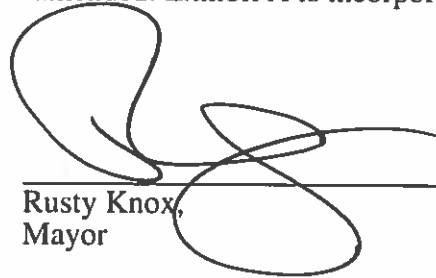
C. PROVISIONS

- (1) Should any provision of this ordinance be found to be unconstitutional by a court of law such provision shall be severed from the remainder of the ordinance and such action shall not affect the enforceability of the remaining revisions of the ordinance.
- (2) This ordinance in no way prevents or limits those alleging discrimination from seeking other types of private legal action or remedies, via county, state, or federal protections.
- (3) An election to proceed by making a complaint alleging a violation of this ordinance shall not foreclose the right to proceed with any civil or criminal remedies available. Nothing in this ordinance shall be interpreted or applied to create any unique requirement, power, or duty or liability in conflict with any existing federal or state law or either the federal or state constitutions.
- (4) Nothing in the requirements of this ordinance shall deny the use of constitutionally or otherwise legally protected speech nor shall it deny any entity or individual their constitutional or statutory protections against compelled speech or expression.
- (5) Violations are not intended to create, and do not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the Town of Davidson, its agencies, departments or any other entities, or any officers, elected officials, employees, or agents thereof, or against the conciliation committee, or any other person, employer, or respondent.

(6) It is understood this ordinance does not apply to nonprofits and non-commercial charitable providers, educational entities, churches nor does it apply to restrooms, shower rooms, bathhouses and similar facilities which are in their nature distinctly private, or to YMCA, YWCA, and similar types of dormitory lodging facilities and neither does it address private clubs or other establishments that are not open to the public.


This ordinance shall become effective subject to appropriate compliance mechanisms. (Section 46 of Town of Davidson Municipal Code is amended. Exhibit A is incorporated by reference.)

Adopted this 23 day of November 2021.




Rusty Knox,
Mayor

ATTEST:



Elizabeth K. Shores
Town Clerk

APPROVED AS TO FORM:



Mary Ann Swan
Town Attorney

EXHIBIT A DEFINITIONS

The following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Discrimination means any disadvantage, difference or distinction in the solicitation, selection, or service to, or treatment of, a vendor, supplier, subcontractor, or customer based on a protected class status or based on any otherwise unlawful use of personal or individual characteristics.

A protected class includes race, natural hair or hairstyles, ethnicity, creed, color, sex, pregnancy, marital or familial status, sexual orientation, gender identity or expression, national origin or ancestry, citizen or noncitizen, military or veteran status, religious belief or non-religious belief or handicap or disability.

Natural hairstyle is defined as any hairstyle, hair type or texture such as but not limited to braids, locks, twists, tight coils or curls, cornrows, banta knots and afros.

Place of public accommodation includes but is not limited to any facility, store, hotel or motel or a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public. This term shall not include religious organizations.

Religious organization means a church, mosque, synagogue, temple, non-denominational ministry, interdenominational and ecumenical organization, religiously operated school, mission organization, faith-based social agency, association, society, or other entity primarily devoted to the study, practice, or advancement of religion

Person includes one or more individual, partnerships, associations, organizations, corporations, legal representatives, unincorporated organizations, fiduciaries, and other organized groups of persons.

Gender identity or expression means having or being perceived as having gender-related identity, expression, appearance, or behavior, whether the identity, expression, appearance, or behavior is different from that traditionally associated with the sex assigned to the individual at birth.

Disability is a physical, mental, cognitive, or developmental condition that impairs, interferes with, or limits a person's ability to engage in certain tasks or actions or participate in typical daily activities and interactions (Merriam-Webster Definition)

Marital Status means the state of being married or not married — such as married, single, divorced, or widowed (Merriam-Webster Definition)

Familial Status is when one or more individuals (who have not attained the age of 18 years) being domiciled with— a parent or another person having legal custody of such individual or individuals

Ethnicity refers to a particular ethnic affiliation or group (Merriam-Webster Definition), relating to large groups of people classed according to common racial, national, tribal, religious., linguistic or cultural origin or background, who share and retain customs, language or social views

Creed is a set of fundamental beliefs (Merriam-Webster Definition)

National Origin or Ancestry is defined as persons initiating or comprising a line of descent (Merriam-Webster Definition) and National origin includes birthplace, ethnicity, ancestry, culture, and language.

Religious Belief or Non-Religious Belief is the belief in the reality of or spiritual aspects of a religion. Religious belief is distinct from religious practice or religious behaviors.

Sexual Orientation means a person's sexual identity or self-identification as bisexual, straight, gay, pansexual, etc. (Merriam-Webster Definition)

Military or Veteran Status indicates status as (i) a member of the uniformed forces, as defined in 10 U.S.C. 738 § 101(a)(5), of the United States, or a reserve component thereof named under 10 U.S.C. § 10101, or a veteran as defined in 38 U.S.C. § 101(2)

Citizen or Non-Citizen Citizen: refers to person who legally belongs to a country and has the rights and protection of that country (Merriam-Webster Definition)

Non-Citizen: refers to any individual who is not a national of a State in which he or she is present

Pregnancy: The condition of being pregnant (Merriam-Webster Definition)