

ORDINANCE NO. O2021-25

**AN ORDINANCE ESTABLISHING SECTION 514
"PROHIBITING DISCRIMINATION"
OF THE CODIFIED ORDINANCES OF THE
CITY OF GALLIPOLIS, OHIO**

WHEREAS, the City of Gallipolis is desirous of promoting fair and equal treatment of all the Citizenry by establishing and enforcing certain rules relating to prohibiting discrimination; and

WHEREAS, an integral part of the enforcement of said code provisions is the establishment and enforcement of penalties and legal remedies for violations; and

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Gallipolis, Ohio:

SECTION 1: That Section 514 is hereby established and shall read as follows:

**CHAPTER 514
Discrimination Prohibited**

- 514.01 Definitions.
- 514.02 Prohibited acts of discrimination relating to employment.
- 514.03 City Services
- 514.04 General exceptions.
- 514.05 Severability.
- 514.99 Penalty.

514.01 DEFINITIONS.

- (a) "Age" means eighteen (18) years of age or older except as otherwise provided by law.
- (b) "Business establishment" means any entity, however organized, which furnishes goods, services or accommodations to the general public. An otherwise qualifying establishment which has membership requirements is considered to furnish service to the general public if its membership requirements consist only of payment of fees or consist only of requirements under which a substantial portion of the residents of the City could qualify.
- (c) "Disability" or "disabled" means, with respect to an individual, a physical or mental impairment, a record of such an impairment, or being perceived or regarded as having such impairment. For purposes of this chapter discrimination on the basis of disability means that no covered entity shall discriminate against a qualified individual with a disability because of that individual's disability. The term "qualified individual with a disability" shall mean an individual with a disability who, with or without

reasonable accommodation, can perform the essential functions of the employment positions that the individual holds or desires.

(d) "Discriminate, discrimination or discriminatory" means any act, policy or practice that, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's race, color, creed, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation.

(e) "Employee" means any individual employed or seeking employment from an employer.

(f) "Employer" means any person who, for compensation, regularly employs four (4) or more individuals, not including the employer's parents, spouse or children. For purposes of this chapter an employer "regularly" employs four (4) individuals when the employer employs four (4) or more individuals for each working day in any twenty (20) or more calendar weeks in the current or previous calendar year. For purposes of this chapter an "employer" is also any person acting on behalf of an employer, directly or indirectly, or any employment agency.

(g) "Gender" means actual or perceived sex. Sex including previous protections.

(h) "Gender identity or expression" means having or being perceived as having a gender identity or expression whether or not that gender identity or expression is different from that traditionally associated with the sex assigned to that individual at birth.

(i) "Labor organization" means any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection on behalf of employees.

(j) "Person" means a natural person, firm, corporation, partnership or other organization, association or group of persons however arranged.

(k) "Place of public accommodation" means inns, taverns, hotels, motels, restaurants, wholesale outlets, retail outlets, banks, savings and loan associations, other financial institutions, credit information bureaus, insurance companies, dispensaries, clinics, hospitals, theaters, recreational parks and facilities, trailer camps, garages, public halls, and all other establishments which offers goods, services, accommodations and entertainment to the public within the City. A place of public accommodation does not include any institution, club or other place of accommodation, which by its nature or distinctly private.

(l) "Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality.

(m) "Transaction in real estate" means the exhibiting, listing, advertising, negotiating, agreeing to transfer or transferring, whether by sale, lease, sublease, rent, assignment or other agreement, of any interest in real property or improvements thereon.

514.02 PROHIBITED ACTS OF DISCRIMINATION RELATING TO EMPLOYMENT.

With regard to employment, it shall be unlawful for any employers or labor organizations to engage in any of the following acts, wholly or partially for a discriminatory reason:

(a) To fail to hire, refuse to hire or discharge an individual;

(b) To discriminate against any individual, with respect to compensation, terms, conditions, or privileges of employment, including promotion. Nothing in this section shall be construed to require any employer to provide benefits, such as insurance, to individuals not employed by the employer;

(c) To fail or refuse to refer for employment any individual in such a manner that would deprive an individual of employment opportunities, that would limit an individual's employment opportunities or that would otherwise adversely affect an individual's status as a prospective employee or as an applicant for employment;

(d) To discriminate against an individual in admission to, or employment in, any program established to provide apprenticeship or other job training, including an on-the-job training program.

(e) To discriminate in referring an individual for employment whether the referral is by an employment agency, labor organization or any other person.

514.03 CITY SERVICES

The City shall be bound by the provisions of this chapter to the same extent as private individuals.

514.04 GENERAL EXCEPTIONS.

(a) Any practice which has a discriminatory effect and which would otherwise be prohibited by this chapter shall not be deemed unlawful if it can be established that the practice is not intentionally devised to contravene the prohibitions of this chapter and there exists no less discriminatory means of satisfying a business purpose.

(b) Unless otherwise prohibited by law, nothing contained in this chapter shall be construed to prohibit promotional activities such as senior citizens discounts and other similar practices designed primarily to encourage participation by protected groups.

(c) It shall not be an unlawful discriminatory practice for an employer to observe the conditions of a bona fide seniority system or a bona fide employee benefit system such as a retirement, pension or insurance plan which is not a subterfuge or pretext to evade the purposes of this chapter.

(d) It shall not be an unlawful discriminatory practice for any person to carry out an affirmative action plan. An affirmative action plan is any plan devised to effectuate remedial or corrective action taken in response to past discriminatory practices, or as otherwise required by state or federal law.

(e) Nothing contained in this chapter shall be deemed to prohibit selection or rejection based solely upon a bona fide occupational qualification or a bona fide physical requirement. Nothing contained in this chapter shall be deemed to prohibit a religious or denominational institution from selecting or rejecting applicants and employees for non-secular positions on the basis of the applicant's or employee's conformance with the institution's religious or denominational principles. If a party asserts that an otherwise unlawful practice is justified as a permissible bona fide occupational qualification, or a permissible bona fide physical requirement, that party shall have the burden of proving:

- (1) That the discrimination is in fact a necessary result of such a bona fide condition; and

(2) That there exists no less discriminatory means of satisfying the bona fide requirement.

(f) If a party asserts that an otherwise unlawful practice is justified as a permissible bona fide religious or denominational preference, that party shall have the burden of proving that the discrimination is in fact a necessary result of such a bona fide condition.

514.05 SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this chapter, or the application thereof to any person, firm, corporation or circumstance, is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion thereof. The City Commission of the City of Gallipolis hereby declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

514.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree.

SECTION 2: This Ordinance shall be in full force and effect at the earliest time allowed by law.

PASSED: _____

ATTEST: *Failed - Lack of motion 8/17/21*

Shelly Clonch

Clerk of the City Commission
Annette M Landers

President of the City Commission
Cody C Caldwell

The foregoing Ordinance is hereby approved as to form

Gallipolis City Solicitor
Brynn S Noe