

CODE

ORDINANCE NO. 4330

AN ORDINANCE AMENDING CHAPTER 5 OF THE
BEAVERTON CODE TO ADD A NEW SECTION 5.16
RELATING TO CIVIL RIGHTS.

WHEREAS, the City Council received a draft Civil Rights Ordinance from the Human Rights Advisory Commission at a Council work session with a recommendation that the City adopt this ordinance to fight discrimination in the City of Beaverton; and

WHEREAS, the City Council believes that discrimination exists in the City of Beaverton and that all forms of discrimination are detrimental to the well being and productivity of the citizens of Beaverton and the State of Oregon; and

WHEREAS, adoption of the proposed addition to the Beaverton Code attached as Exhibit "1", demonstrates the City's resolve to combat discrimination where it exists in the City of Beaverton. Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:


Chapter 5 of the Beaverton Code is amended to include a new Section 5.16, attached hereto as Exhibit "1".

First reading this 8th day of November, 2004.

Passed by the Council this 15th day of November, 2004.

Approved by the Mayor this 16th day of NOVEMBER, 2004.

ATTEST:


SUE NELSON, City Recorder

APPROVED:


ROB DRAKE, Mayor

CIVIL RIGHTS

5.16.005 Short Title. BC 5.16.005 - .060 shall be known and may be cited as the "Civil Rights Ordinance" and may also be referred to herein as "Section 5.16."

5.16.010 Policy. It is the policy of the City of Beaverton to eliminate discrimination based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity and source of income. Such discrimination threatens not only the rights and privileges of Beaverton citizens, but menaces the institutions and foundation of our community. Furthermore, the Mayor and City Council find that discrimination on the basis of sexual orientation and gender identity exists in the City of Beaverton and that state law does not clearly prohibit such discrimination. It is the intent of the Mayor and Council, in the exercise of their powers for the protection of the public health, safety, and general welfare and for the maintenance of peace and good government, that every individual shall have an equal opportunity to participate fully in the life of the City and that discriminatory barriers to equal participation in employment, housing, and public accommodation be removed.

5.16.015 Definitions. As used in Section 5.16, except where the context otherwise requires:

Gender Identity - A person's actual or perceived sex, including a person's identity, appearance, expression, or behavior with respect to actual or perceived sex, whether or not that identity, appearance, expression or behavior is different from that traditionally associated with the person's sex at birth.

Sexual Orientation - Actual or perceived heterosexuality, homosexuality, or bisexuality.

Any term used but not defined in Section 5.16 shall be interpreted consistently with definitions provided in Oregon Revised Statutes, Chapter 659A (2003).

5.16.020 Unlawful Employment Practices. It shall be an unlawful employment practice for any employer to discriminate on the basis of an individual's race, religion, color, sex, marital status, familial status, national origin, age (if the individual is 18 years of age or older), mental or physical disability, sexual orientation or gender identity by committing against any such individual any of the acts made unlawful under ORS 659A.030, 659A.100 to 659A.142.

5.16.025 Unlawful Real Property Transactions Practices. It shall be an unlawful real property transaction practice for any person to discriminate on the basis of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income

EXHIBIT 1

by committing against any such individual any of the acts made unlawful under ORS 659A.145 or 659A.421.

5.16.030 Unlawful Public Accommodation Practices. It shall be an unlawful public accommodation practice for a person to discriminate on the basis of an individual's race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income, by committing against any such individual any of the acts made unlawful under ORS 659A.142 or ORS 659A.400 to 659A.409.

5.16.040 Exceptions.

A. The prohibitions in Section 5.16 against discriminating on the basis of sexual orientation and gender identity do not apply to:

1. The leasing or renting of space within a church, temple, synagogue, religious school, or other facility used primarily for religious purposes.
2. The leasing or renting of a room or rooms within an individual living unit which is owned by the lessor as his or her primary residence.

B. The prohibitions in Section 5.16 against discriminating on the basis of source of income do not prohibit:

1. Inquiry into and verification of a source or amount of income.
2. Inquiry into, evaluation of, and decisions based on the amount, stability, security, or creditworthiness of any source of income.
3. Screening prospective purchasers and tenants on bases not specifically prohibited by this chapter or by state or federal law.
4. Refusal to contract with a governmental agency under 42 U.S.C. §1437f(a) "Section 8."

C. The prohibitions in subsection 5.16.025 against discriminating on the basis of age do not apply to housing for older persons, as defined in ORS 659A.421(7)(b) and (c).

D. The prohibitions in subsection 5.16.030 against discriminating on the basis of age or familial status do not apply to the use of special rates or services or to the promotion of business through the issuance of special rates for families with children, or persons 55 years of age or older.

E. Reasonable and appropriate accommodations shall be made to permit all persons access to restrooms consistent with their expressed gender. However, the prohibitions in Section 5.16 against discriminating on the basis of gender identity do not prohibit:

1. Health or athletic clubs or other entities that operate gender-specific facilities involving public nudity such as showers and locker rooms, from requiring an individual to document their gender or transitional status. Such documentation can include but is not limited to a court order, letter from a physician, birth certificate, passport, or driver's license.

2. Valid employer dress codes or policies, so long as the employer provides, on a case-by-case basis, for reasonable accommodation based on the health and safety needs of persons protected on the basis of gender identity.

5.16.050 Administration and Enforcement.

A. Enforcement of all or any part of Section 5.16 shall be governed by the procedures established in ORS Chapter 659A. The Mayor may adopt rules pursuant to BC 1.02.010 to implement enforcement and administration of this section.

B. Any person claiming to be aggrieved by an unlawful employment practice under subsection 5.16.020 or any person claiming to be aggrieved by an unlawful practice under subsections 5.16.025 or 5.16.030 relating to selling, renting or leasing real estate or discrimination in public accommodations, may file a complaint with the Commissioner under procedures established in ORS 659A.820.

C. The Commissioner may then proceed and shall have the same enforcement powers under Section 5.16, and if the complaint is found to be justified the complainant shall be entitled to the same remedies, as those provided under ORS 659A.835 to 659A.865.

D. Any order issued by the Commissioner of the Bureau of Labor and Industries under Section 5.16 shall be deemed as one issued by a municipal judge and shall be fully enforceable by the City.

E. Any person claiming to be aggrieved by an unlawful discriminatory act under the provisions of Section 5.16 shall have a cause of action in any court of competent jurisdiction for damages and such other remedies as may be appropriate. Election of remedies and other procedural issues relating to the interplay between administrative proceedings and private rights of action shall be decided as provided for in ORS 659A.870 to 659A.890. The court may grant such relief as it deems appropriate, including, but not limited to, such relief as is provided in ORS 659A.885.

5.16.060 Severability. The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any part thereof shall not impair or otherwise affect in any manner the validity, enforceability or effect of the remaining terms of this Ordinance.