



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

City of Racine, Wisconsin
COMMON COUNCIL

AGENDA BRIEFING MEMORADUM (ABM)

COMMITTEE: Finance and Personnel Committee **LEGISLATION ITEM #:** Ordinance 0014-18

AGENDA DATE: September 10, 2018

DEPARTMENT: City Attorney's Office

Prepared By: City Attorney Scott R. Letteney

Reviewed By: N/A

SUBJECT: An ordinance to amend Chapter 62, Article II of the Municipal Code of the City of Racine, Wisconsin.

EXECUTIVE SUMMARY: The Mayor and the Alderperson of the 15th District requested that Chapter 62 of the Racine Code of Ordinances be amended to provide for greater protection against gender identity discrimination. Additionally, the Committee of the Whole recommended that the makeup of the Affirmative Action/Human Rights Commission membership be amended to include a member of the LGBTQ community and a member with a recognized disability.

BACKGROUND & ANALYSIS: By Racine Ordinance section 62-27, it is the public policy of the City of Racine "to assure equal opportunities and fair housing to all citizens of the city" and discrimination on the basis of "age, sex, race, color, veteran's status, disabled veteran's status, religion, disability or disabilities, national origin, marital status, sexual orientation, familial status, lawful source of income, or economic status" is made unlawful. Pursuant to Racine Ordinance section 62-38, it is illegal in the City of Racine to discriminate on any of these bases in the furnishing of goods and services and in hiring, promoting, discharging, or making any other personnel transaction. Violations of such law are the purview of the Racine Affirmative Action/Human Rights Commission.

The Mayor and the Alderperson of the 15th District requested that Chapter 62 of the Racine Code of Ordinances be amended to provide for greater protection against gender identity discrimination. Additionally, the Committee of the Whole recommended that the makeup of the Affirmative

31 Action/Human Rights Commission membership be amended to include a member of the LGBTQ
32 community and a member with a recognized disability as defined by Racine Ordinance.

33 *Those two areas, i.e., adding a prohibition against “gender identity” and the two AA/HRC Commissioner*
34 *characteristics, are the only two substantive changes to the ordinance. All other proposed changes*
35 *simply add definitions to assure a clearer understanding of the ordinance’s substantive provisions.*

36 Gender Identity:

37 The concept of discrimination on the basis of “gender identity” does not exist within Racine ordinance.
38 Miriam-Webster defines “gender identity” as “a person’s internal sense of being male, female, some
39 combination of male and female, or neither male nor female.” The proposed ordinance amendment
40 defines “gender identity” as the actual or perceived gender-related identity, expression, appearance, or
41 mannerisms, or other gender-related characteristics of an individual, regardless of the individual’s
42 designated sex at birth.

43 “Gender identity” is different from “sexual orientation.” “Sexual orientation” is defined by Black’s Law
44 Dictionary as “[a] person’s predisposition or inclination toward a particular type of sexual activity or
45 behavior” and by the Human Rights Campaign as “[a]n inherent or immutable enduring emotional,
46 romantic or sexual attraction to other people.”¹

47 Affirmative Action/Human Rights Commission Membership:

48 As of this writing, the AA/HRC membership is established by Racine Ordinance section 62.29(a). The
49 AA/HRC has “nine members, two of whom shall be aldermen, and one of whom shall be an attorney.
50 The affirmative action officer is an ex officio member of the commission, and, therefore, is one of the
51 nine members of the commission.” Per the ordinance, “at no time shall the total of women and ethnic
52 or racial minorities constitute less than a majority of the commission.”

53 The proposed ordinance amendment would require one AA/HRC member “one of whom self-identifies
54 as a member of the LGBTQ community, one of whom has a disability as defined in section 62-26” of the
55 Racine Ordinances. Per section 62-26, “disability” means “one or more physical or mental impairments
56 that substantially limits one or more major life activities, a record of having such an impairment or
57 impairments or being regarded as having such an impairment or impairments.”

58 Definitions:

59 In order to assure no misunderstanding of the new terms of the proposed ordinance amendment, the
60 following definitions are included:

61 *Bisexual* means people who are emotionally, romantically, or sexually attracted to more than
62 one sex, gender, or gender identity though not necessarily simultaneously, in the same way or
63 to the same degree.

¹ The Human Rights Campaign publishes the Municipal Equality Index, which examines how inclusive municipal laws, policies, and services are of LGBTQ people who live and work there. Cities are rated based on non-discrimination laws, the municipality as an employer, municipal services, law enforcement and the city leadership’s public position on equality.

64 *Gay* means a person who is emotionally, romantically, or sexually attracted to members of the
65 same gender. *Gay* is often used to describe homosexual males, but lesbians may also be referred
66 to as *gay*.

67 *Gender* identity means the actual or perceived gender-related identity, expression, appearance,
68 or mannerisms, or other gender-related characteristics of an individual, regardless of the
69 individual's designated sex at birth.

70 *Lesbian* means a woman who is emotionally, romantically, or sexually attracted to other
71 women.

72 *LGBTQ* is an acronym for "lesbian, gay, bisexual, transgender, and queer or questioning."

73 *Queer* means fluid gender identities and sexual orientations.

74 *Questioning* refers to people who are in the process of exploring their sexual orientation or
75 gender identity.

76 *Sexual orientation* means an inherent or immutable enduring emotional, romantic, or sexual
77 attraction to other people.

78 *Transgender* is an umbrella term for people whose gender identity or expression is different
79 from cultural expectations based on the sex they were assigned at birth. Being transgender does
80 not imply any specific sexual orientation. Therefore, transgender people may identify as
81 straight, gay, lesbian, bisexual, or some other identity or orientation."

82

83 **BUDGETARY IMPACT:** None.

84

85 **OPTIONS/ALTERNATIVES:** Decline to amend Racine ordinances.

86

87 **RECOMMENDED ACTION:** Inasmuch as this is a matter purely within the discretion of the Common
88 Council, the City Attorney's Office makes no recommendation.

89

90 **ATTACHMENT(S):** None