



MEMORANDUM

To: Mayor and Members of the City Council

From: Rich Olson, City Manager

Date: September 22, 2016

Re: Consideration – Hold a Public Hearing to Amend the City Code with regard to EEO (Non-Discrimination) Policy for the City; and Adoption of Resolution Amending the Personnel Policy Manual

BACKGROUND:

During recent meetings of the City Council, Councilmembers have expressed a desire to clarify the City's policy with regard to Equal Employment Opportunity of the City's present and future employees.

Currently, the City provides numerous EEO protected classes in § 30.01 EQUAL OPPORTUNITY IN MUNICIPAL EMPLOYMENT of the City Code, which reads as follows:

The city affirms its support of the equal opportunity concept. The city administration shall ensure that promotions, employments, disciplinary actions and related internal administrative practices are based solely on the performance or the qualifications of the individual involved. Individuals with disabilities shall be given all consideration required under the Americans with Disabilities Act, being 42 U.S.C. §§ 12101 et seq. Discrimination by department heads or other supervisory personnel on the basis of race, color, religion, sex, pregnancy, marital status, national origin, age or disability will not be tolerated. All city employees will be expected to actively support this policy of non-discrimination. The City Manager will assure that each employee is made fully aware of this policy.

The City's Personnel Policy Manual and its Sexual Harassment Policy also contain non-discrimination statements.

ANALYSIS:

Through the deliberation of this matter during the September 12, 2016 Council meeting, the City Council called for a public hearing to be held on September 26, 2016 to receive public input regarding an amendment to Section 30.01 of Chapter 30 of the City's Code of Ordinances as shown in add-delete format, as follows:

The city affirms its support of the equal opportunity concept. The city administration shall ensure that promotions, employments, disciplinary actions and related internal administrative practices are based solely on the performance

or the qualifications of the individual involved. Individuals with disabilities shall be given all consideration required under the Americans with Disabilities Act, being 42 U.S.C. §§ 12101 et seq. Discrimination by department heads or other supervisory personnel on the basis of race, color, religion, sex, pregnancy, ~~marital status, sexual orientation,~~ national origin, age, ~~or disability, present or former military status, genetic information or any other legally protected characteristic is strictly prohibited~~ and will not be tolerated. All city employees will be expected to actively support this policy of non-discrimination. The City Manager will assure that each employee is made fully aware of this

In addition, the City Council instructed staff to prepare a resolution to effect the following changes in the Personnel Policy Manual:

Page 1 of Personnel Policy Manual

CITY OF ELIZABETH CITY, NORTH CAROLINA PERSONNEL POLICIES

I. THE PERSONNEL SYSTEM

3.1 Merit Principles. The City of Elizabeth City embraces the following principles in administering its personnel program: ~~such as:~~

~~• Applicants and employees shall be assured of fair treatment in all aspects of personnel administration without regard to race, color, religious creed, sex, sexual orientation, national origin or ancestry, age, handicapped status, or any other non-merit factor, except where sex or physical requirements constitute a bone fide occupational qualification necessary to proper and effective functioning in the job. All employment decisions shall be based on job-related factors.~~

~~The city affirms its support of the equal opportunity concept. The city administration shall ensure that promotions, employments, disciplinary actions and related internal administrative practices are based solely on the performance or the qualifications of the individual involved. Individuals with disabilities shall be given all consideration required under the Americans with Disabilities Act, being 42 U.S.C. §§ 12101 et seq. Discrimination by department heads or other supervisory personnel on the basis of race, color, religion, sex, pregnancy, sexual orientation, national origin, age, disability, present or former military status, genetic information or any other legally protected characteristic is strictly prohibited and will not be tolerated. All city employees will be expected to actively support this policy of non-discrimination. The City Manager will assure that each employee is made fully aware of this policy.~~

Page 15 of Personnel Policy Manual

Employees shall be considered for promotion on the basis of job-related experience, skill, knowledge and ability, and upon a review of the quality of past performance and general suitability for the higher level position. ~~Political preference, religious creed, age, sex, sexual orientation, race, handicapped status, national origin or ancestry and citizenship are not job-related qualifications and shall not influence selection for promotion.~~The city does not discriminate ~~on the basis of disability against a QID (qualified individual with a disability)~~as expounded in Chapter 1 The Personnel System, Section 3.1 Merit Principles; and ensures that promotion decisions are based on merit.

Last sentence on page 71 and all of Page 72 of Personnel Policy Manual

Any other act of harassment that is demeaning to another person or group of persons on

the basis of any legally protected characteristic~~race, color, religion, sex, pregnancy, national origin~~ is strictly prohibited and will not be tolerated.

Page 77 of Personnel Policy Manual

EQUAL EMPLOYMENT OPPORTUNITY

The City provides equal employment opportunities for all qualified persons and will not discriminate as provided in Chapter 1 The Personnel System, Section 3.1 Merit Principles. ~~The City will not discriminate against applicants or employees on the basis of race, color, religion, sex, pregnancy, marital status, national origin, age or disability.~~

In furtherance of this policy, the City prohibits any retaliatory action of any kind taken by any employee of the City against any other employee or applicant for employment because that person made a charge, testified, assisted or participated in any manner in a hearing, proceeding or investigation of employment discrimination.

STAFF RECOMMENDATION:

AT THE CONCLUSION OF THE PUBLIC HEARING:

By motion, adopt the attached ordinance enacting amendments to Section 30.01 Equal Opportunity in Municipal Government as presented.

AFTER ADOPTION OF THE ORDINANCE:

By motion, adopt the attached resolution effecting amendments to the City's Personnel Policy Manual as provided.

RCO/vdw



Ordinance # 2016-09-_____
ENACTING AMENDMENTS TO
City of Elizabeth City Code of Ordinances
Chapter 30: Officers and Employees
Section 30.01 Equal Opportunity in Municipal Employment

WHEREAS, the City's Code of Ordinances establishes policy with regard to Equal Opportunity in Municipal Government within the City of Elizabeth City; and

WHEREAS, during recent Council deliberations of this matter, amendments were identified that the Council wished to be made to clarify the City's Equal Employment policy; and

WHEREAS, the City Council reviewed this matter during its September 12, 2016 meeting and called for a Public Hearing to receive citizen input; and

WHEREAS, the Public Hearing to effectuate this ordinance amendment was advertised on September 16, 2016 in The Daily Advance to be held on September 26, 2016, as required.

NOW THEREFORE BE IT ORDAINED THAT the City Council of the City of Elizabeth City hereby amends Chapter 30: Officers and Employees, Section 30.01 of the City of Elizabeth City Code of Ordinances, as recorded by the following add-delete formatted text:

SECTION I. CHAPTER 30 – OFFICERS AND EMPLOYEES

§ 30.01 EQUAL OPPORTUNITY IN MUNICIPAL EMPLOYMENT.

The city affirms its support of the equal opportunity concept. The city administration shall ensure that promotions, employments, disciplinary actions and related internal administrative practices are based solely on the performance or the qualifications of the individual involved. Individuals with disabilities shall be given all consideration required under the Americans with Disabilities Act, being 42 U.S.C. §§ 12101 et seq. Discrimination by department heads or other supervisory personnel on the basis of race, color, religion, sex, pregnancy, ~~marital status~~, ~~sexual orientation~~, national origin, age, ~~or~~ disability, present or former military status, genetic information or any other legally protected characteristic is strictly prohibited and will not be tolerated. All city employees will be expected to actively support this policy of non-discrimination.

SECTION II. EFFECTIVE DATE: This Ordinance shall take effect on September 27, 2016.

SECTION III. CODIFICATION. The provisions of this Ordinance shall be published as appropriate in the City of Elizabeth City Code of Ordinances as soon as practicable after its adoption.

SECTION IV. SEVERABILITY CLAUSE. If any section, or part or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council of the City of Elizabeth City in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION V. All ordinances and sections of the Elizabeth City Code of Ordinances, and parts thereof, inconsistent herewith be and the same hereby are repealed to the extent of such inconsistencies.

READ, CONSIDERED, AND ADOPTED at a regular meeting of the City Council of the City of Elizabeth City, North Carolina, during which a quorum was present, held on the 26th day of September 2016.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk



RESOLUTION # 2016 – 09 - _____
TO AMEND THE CITY OF ELIZABETH CITY PERSONNEL POLICY MANUAL
REV. JULY 2014

WHEREAS, the City Council of the City of Elizabeth City desires to amend the City of Elizabeth City Personnel Policy Manual to provide for clarity with regard to the City's Equal Employment Opportunity Policy; and

WHEREAS, the City Council reviewed and discussed the proposed changes during the City Council meeting held on September 12, 2016 and directed staff to prepare a resolution for consideration.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Elizabeth City hereby adopts the following amendments to SECTION I PERSONNEL POLICY SYSTEM; SECTION V PERSONNEL ACTIONS; SECTION I SEXUAL AND OTHER UNLAWFUL HARASSMENT POLICY; AND THE CHAPTER ENTITLED EQUAL EMPLOYMENT OPPORTUNITY OF THE CITY OF ELIZABETH CITY PERSONNEL POLICY MANUAL, REV. JULY 2014 as provided in the following add-delete format:

SECTION I PERSONNEL POLICY SYSTEM

3.1 Merit Principles. The City of Elizabeth City embraces the following principles in administering its personnel program: ~~such as:~~

~~Applicants and employees shall be assured of fair treatment in all aspects of personnel administration without regard to race, color, religious creed, sex, sexual orientation, national origin or ancestry, age, handicapped status, or any other non-merit factor, except where sex or physical requirements constitute a bone fide occupational qualification necessary to proper and effective functioning in the job. All employment decisions shall be based on job-related factors.~~

The city affirms its support of the equal opportunity concept. The city administration shall ensure that promotions, employments, disciplinary actions and related internal administrative practices are based solely on the performance or the qualifications of the individual involved. Individuals with disabilities shall be given all consideration required under the Americans with Disabilities Act, being 42 U.S.C. §§ 12101 et seq. Discrimination by department heads or other supervisory personnel on the basis of race, color, religion, sex, pregnancy, sexual orientation, national origin, age, disability, present or former military status, genetic information or any other legally protected characteristic is strictly prohibited and will not be tolerated. All city employees will be expected to actively support this policy of non-discrimination. The City Manager will assure that each employee is made fully aware of this policy.

SECTION V PERSONNEL ACTIONS

(Page 15 of Personnel Policy Manual)

Employees shall be considered for promotion on the basis of job-related experience, skill, knowledge and ability, and upon a review of the quality of past performance and general suitability for the higher level position. ~~Political preference, religious creed, age, sex, sexual orientation, race, handicapped status, national origin or ancestry and citizenship are not job-related qualifications and shall not influence selection for promotion.~~ The city does not discriminate ~~on the basis of disability against a QID (qualified individual with a disability) as expounded in Chapter 1 The Personnel System, Section 3.1 Merit Principles;~~ and ensures that promotion decisions are based on merit.

SECTION I SEXUAL AND OTHER UNLAWFUL HARASSMENT POLICY

(Last sentence on page 71 and all of Page 72 of Personnel Policy Manual)

Any other act of harassment that is demeaning to another person or group of persons on the basis of any legally protected characteristic ~~race, color, religion, sex, pregnancy, national origin~~ is strictly prohibited and will not be tolerated.

CHAPTER ENTITLED EQUAL EMPLOYMENT OPPORTUNITY

(Page 77 of Personnel Policy Manual)

The City provides equal employment opportunities for all qualified persons and will not discriminate as provided in Chapter 1 The Personnel System, Section 3.1 Merit Principles. ~~The City will not discriminate against applicants or employees on the basis of race, color, religion, sex, pregnancy, marital status, national origin, age or disability.~~

In furtherance of this policy, the City prohibits any retaliatory action of any kind taken by any employee of the City against any other employee or applicant for employment because that person made a charge, testified, assisted or participated in any manner in a hearing, proceeding or investigation of employment discrimination.

This policy shall take effect on September 27, 2016.

ADOPTED, this the 26th day of September 2016.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk