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First Reading: September 8, 2014
AMENDED
COUNCIL BILL NO. 2014- 189

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GENERAL ORDINANCE NO. 6141

AN ORDINANCE

1 AMENDING Chapter 2, Administration, Article IV, Boards, Commissions and
2 Committees, Division 4, Mayor’s Commission on Human Rights and
3 Community Relations, Section 2-223; and Chapter 62, Human Rights, to
4 add sexual orientation and gender identity to the list of categories of
5 persons protected from discrimination, to consolidate the Commission’s
6 investigative process into a single division of the Code, and to clarify the
7 Commission’s powers in light of recent court decisions. (The Community
8 Involvement Committee recommends approval.)
9 _____

10
11 WHEREAS, the Mayor’s Commission on Human Rights and Community
12 Relations (“Commission”) is charged with fostering mutual understanding and respect
13 while preventing discrimination among all communities in Springfield; and
14

15 WHEREAS, the current powers and duties of the Commission do not include
16 discrimination on the basis of sexual orientation and gender identity as grounds for
17 complaint or investigation in the areas of employment, housing, and public
18 accommodations; and
19

20 WHEREAS, it is necessary for the protection of our citizens to amend the powers
21 and duties of Commission to include the prevention, and investigation of discrimination
22 on the basis of sexual orientation and gender identity; and
23

24 WHEREAS, it is necessary to establish a clear process by which the Commission
25 investigates and resolves disputes relating to human rights.
26

27 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
28 SPRINGFIELD, MISSOURI, as follows:
29

30 NOTE: Underlined language has been added. Language to be removed is ~~stricken~~.
31

32 Section 1 – The Springfield City Code, Chapter 2, Administration, Article IV,
33 Boards, Commissions and Committees, Sec. 2-223 is hereby amended as follows:
34

35 Sec. 2-223. - Powers and duties.

36

37 The powers and duties of the commission established by this division shall be to:

38

39 (1) Foster, through community effort or otherwise, good will, cooperation and
40 conciliation among the groups and elements of the inhabitants of this
41 community.

42

43 (2) Formulate and carry out voluntary educational training programs that will aid in
44 eliminating and preventing all types of prejudice and discrimination based on
45 race, creed, sex, handicap, age, national origin, ~~or~~ ancestry, sexual orientation
46 or gender identity.

47

48 (3) Receive, hear and investigate complaints, as outlined in chapter 62, and initiate
49 its own investigations, and report to the city council on the following:

50

51 (a) Racial, religious and ethnic group tensions, prejudice, intolerance, bigotry
52 and discrimination, and any breach of the peace or disorder occasioned
53 thereby.

54

55 (b) Practices of discrimination against any person in employment, recreation,
56 ~~education~~, housing and other phases of public welfare because of race,
57 creed, sex, handicap, age, national origin, ~~or~~ ancestry, sexual orientation,
58 gender identity, or any other basis of discrimination prohibited under
59 chapter 62.

60

61 (4) Initiate and conduct voluntary surveys, assemble pertinent data, hold hearings,
62 issue such publications and such reports of investigations and research as, in
63 its judgment, will tend to minimize or eliminate prejudice, intolerance, bigotry,
64 discrimination, breach of peace or disorder, or tend to promote good will.

65

66 (5) Create such advisory committees and subcommittees as, in its judgment, will
67 aid in effectuating the purposes of this division and to empower it to study the
68 problems of prejudice, intolerance, bigotry and discrimination, and breach of
69 peace or disorder occasioned thereby.

70

71 (6) Enlist the cooperation of all racial, religious and ethnic groups, community,
72 civic, labor and business organizations, fraternal and benevolent associations,
73 veterans' organizations and other groups in educational campaigns and
74 programs devoted to teaching the need for eliminating group tensions,
75 prejudices, intolerances, bigotry and discrimination, and breach of peace and
76 disorder occasioned thereby.

77

78 (7) Make recommendations to the city council concerning the development of
79 policies and procedures that will aid in eliminating all types of discrimination
80 based on race, creed, sex, handicap, age, national origin, ~~or~~ ancestry, sexual
81 orientation, gender identity, or any other basis of discrimination prohibited
82 under chapter 62.

83
84 (8) Recommend to the city council legislation to aid in carrying out the purposes of
85 this division.

86
87 (9) Hold public hearings and request the attendance of witnesses when the
88 commission deems it necessary or advisable to accomplish its purposes.

89
90 Section 2 – The Springfield City Code, Chapter 62, Human Rights, Article II, Fair
91 Employment Practices, Division 1, Generally, Sections 62-32, 62-34, 62-35, 62-36, 62-
92 37, 62-38 and 62-40 are hereby amended as follows:

93
94 Sec. 62-32. - Definitions.

95
96 The following words, terms and phrases, when used in this article, shall have the
97 meanings ascribed to them in this section, except where the context clearly indicates a
98 different meaning:

99
100 Complaint means a written charge of discrimination alleging that a person has engaged
101 in a discriminatory practice.

102
103 Complainant means a person who has filed a complaint with the commission alleging
104 that another person has engaged in a discriminatory practice.

105
106 Discriminatory practice means an act that is unlawful under sections 62-33, 62-34, 62-
107 63, 62-82, and 62-103.

108
109 Employer means a person who employs one or more persons, exclusive of parents,
110 spouses or children of such person, and who has a place of business in the city. The
111 word "employer" shall include, and the word "person" shall include when used for the
112 word "employer," the city and the boards and agencies of the city.

113
114 Employment agency means any person or agency, public or private, regularly
115 undertaking with or without compensation to procure employees for an employer or to
116 procure for employees opportunities to work for an employer and includes any person
117 acting in the interest of such a person.

118
119 Gender identity means the gender-related identity, appearance, or mannerisms or other
120 gender-related characteristics of an individual, with or without regard to the individual's
121 designated sex at birth.

122
123 Labor organization includes any organization which exists for the purpose, in whole or in
124 part, of collective bargaining or of dealing with employers concerning grievances, terms
125 or conditions of employment, or for other mutual aid or protection of employees in
126 relation to employment.

127
128 Person has the same meaning as set forth in section 1-2.

129
130 Person with a disability means a person with a physical or mental impairment which

131 substantially limits one or more of the person's major life activities, a person regarded
132 as having such an impairment, or a person with a record of having such an impairment,
133 which with or without reasonable accommodation does not interfere with performing the
134 job, utilizing the place of public accommodation, or occupying the dwelling in question.
135 For purposes of this article, the term "disability" does not include the current illegal use
136 of or addiction to a controlled substance as such term is defined by RSMo 195.010;
137 however, a person may be considered to have a disability if that person:

- 138
- 139 (1) Has successfully completed a supervised drug rehabilitation program and is no
140 longer engaging in the illegal use of, and is not currently addicted to, a
141 controlled substance, or has otherwise been rehabilitated successfully and is
142 no longer engaging in such use and is not currently addicted;
 - 143
 - 144 (2) Is participating in a supervised rehabilitation program and is no longer engaging
145 in illegal use of controlled substances; or
 - 146
 - 147 (3) Is erroneously regarded as currently illegally using, or being addicted to, a
148 controlled substance.

149

150 *Qualified person with a disability* means a person with a disability who can perform the
151 essential functions of the job in question with or without reasonable accommodation.

152

153 *Reasonable accommodation* means the following:

- 154
- 155 (1) Making facilities used by employees readily accessible to and usable by
156 persons with disabilities; and
 - 157
 - 158 (2) Job restructuring, part-time or modified work schedules, acquisition or
159 modification of equipment or devices, or the provision of readers or interpreters;
160 and other similar actions, provided such accommodations do not create an
161 undue hardship.

162

163 *Undue hardship* means an accommodation which imposes an economic burden on the
164 employer which is excessive. Factors to be considered in determining whether or not
165 there is an undue burden are:

- 166
- 167 (1) The overall size of the employer's program with respect to number of
168 employees, number and type of facilities, and size of budget;
 - 169
 - 170 (2) The type of the employer's operation, including the composition and structure of
171 the recipient's work force; and
 - 172
 - 173 (3) The nature and cost of the accommodation needed.

174

175 *Sexual orientation* means male or female homosexuality, heterosexuality and
176 bisexuality, by preference, practice or as perceived by others, but not including sexual
177 preference or practice between an adult and a minor.

178

179 Sec. 62-34. - Unlawful employment practices.

180

181 It shall be an unlawful employment practice:

182

183 (1) For an employer, because of the age, race, creed, color, disability, religion, sex,
184 national origin, ~~or~~ ancestry, sexual orientation or gender identity of any individual,
185 to fail or refuse to hire, or to discharge, any individual, or otherwise to
186 discriminate against any individual with respect to his compensation, terms,
187 conditions or privileges of employment; or for an employer to limit, segregate or
188 classify his employees in any way which would deprive or tend to deprive any
189 individual of employment opportunities or otherwise adversely affect his status as
190 an employee because of such individual's age, race, creed, color, disability,
191 religion, sex, national origin, ~~or~~ ancestry, sexual orientation or gender identity.

192

193 (2) For a labor organization to exclude or expel from its membership an individual or
194 to discriminate in any way against any of its members or against any employer or
195 any individual employed by an employer; because of age, race, creed, color,
196 disability, religion, sex, national origin, ~~or~~ ancestry, sexual orientation or gender
197 identity of any individual; or to limit, segregate or classify its membership, or to
198 classify or fail or refuse to refer for employment any individual in any way which
199 would deprive or tend to deprive the individual of employment opportunities, or
200 would limit such employment opportunities or would otherwise adversely affect
201 an individual's status as an employee or as an applicant for employment,
202 because of the individual's age, race, creed, color, disability, religion, sex,
203 national origin, ~~or~~ ancestry, sexual orientation or gender identity; or for any
204 employer, labor organization or joint labor-management committee controlling
205 apprenticeship or training or retraining, including on-the-job training programs, to
206 discriminate against any individual because of his age, race, creed, color,
207 disability, religion, sex, national origin, ~~or~~ ancestry, sexual orientation or gender
208 identity in admission to, or employment in, any program established to provide
209 apprenticeship or training.

210

211 (3) For any employer or employment agency to print or circulate or cause to be
212 printed or circulated any statement, advertisement or publication, or to use any
213 form of application for employment, or to make any inquiry in connection with
214 prospective employment, which expresses directly or indirectly any limitation,
215 specification or discrimination because of age, race, creed, color, disability,
216 religion, sex, national origin, ~~or~~ ancestry, sexual orientation or gender identity
217 unless based upon a bona fide occupational qualification, or for an employment
218 agency to fail or refuse to refer for employment, or otherwise discriminate
219 against, any individual because of his age, race, creed, color, disability, religion,
220 sex, national origin, ~~or~~ ancestry, sexual orientation or gender identity, or to
221 classify or refer for employment any individual on the basis of his age, race,
222 creed, color, disability, religion, sex, national origin, ~~or~~ ancestry, sexual
223 orientation or gender identity.

224

225 (4) For any employer, labor organization or employment agency to discharge, expel
226 or otherwise discriminate or retaliate in any manner against any individual

227 because the individual has opposed any practices forbidden under this article, or
228 because the individual that filed a complaint testified or assisted in any
229 proceeding or hearing conducted pursuant to this article.

230
231 (5) For any person, whether an employer or employee or not, to aid, abet, incite,
232 compel or force the doing of any acts forbidden under this article or to attempt to
233 do so.

234
235 (6) To discriminate in any manner against any person because of such person's
236 association with any person protected by this article.

237
238 (7) Exemption for Religiously-based or Religion-affiliated Organizations.

239
240 a. In General – This article shall not apply to any of the employment
241 practices of a religious corporation, association, educational institution, or
242 society which has as its primary purpose religious ritual or worship or the
243 teaching or spreading of religious doctrine or belief.

244
245 b. Certain Employees – For any religious corporation, association,
246 educational institution, or society that is not wholly exempt under
247 subsection (a), this article shall not apply with respect to the employment
248 of individuals whose primary duties consist of teaching or spreading
249 religious doctrine or belief, religious governance, supervision of a religious
250 order, supervision of persons teaching or spreading religious doctrine or
251 belief, or supervision or participation in religious ritual or worship.

252
253 ~~(7) Nothing in this article shall be taken to prohibit a religious organization,~~
254 ~~association or society, or any nonprofit institution or organization operated,~~
255 ~~supervised or controlled by or in conjunction with a religious organization,~~
256 ~~association or society and whose purpose and character are primarily religious,~~
257 ~~from giving employment preference to members of its own religion, unless~~
258 ~~membership in such religion, organization or society is restricted on account of~~
259 ~~race, color, national origin, sex, age or disability.~~

260
261 Sec. 62-35. - Bona fide tests or conditions not unlawful.

262
263 Notwithstanding any other provisions of this article, it shall not be an unlawful
264 employment practice for an employer to apply different standards of compensation or
265 different terms, conditions or privileges of employment pursuant to a bona fide seniority
266 or merit system or a system which measures earnings by quantity or quality of
267 production or to employees who work in different locations, provided that such
268 differences or such systems are not the result of an intention or a design to discriminate
269 and are not used to discriminate because of age, race, creed, color, disability, religion,
270 sex, national origin, ~~or~~ ancestry, sexual orientation or gender identity, nor shall it be an
271 unlawful employment practice for an employer to give and to act upon the results of any
272 professionally developed ability test, provided that such test, its administration, or action
273 upon the results thereof is not designed, intended or used to discriminate against an
274 individual because of age, race, creed, color, disability, religion, sex, national origin, ~~or~~

275 ancestry, sexual orientation or gender identity.

276

277 Sec. 62-36. - Preferential treatment not required.

278

279 Nothing contained in this article shall be interpreted to require any employer,
280 employment agency, labor organization or joint labor-management committee subject to
281 this article to grant preferential treatment to any individual or to any group because of
282 the age, race, creed, color, disability, religion, sex, national origin, ~~or~~ ancestry, sexual
283 orientation or gender identity of such individual or group, on account of an imbalance
284 which may exist with respect to the total number or percentage of persons of any age,
285 race, creed, color, disability, religion, sex, national origin, ~~or~~ ancestry, sexual orientation
286 or gender identity employed by any employer, referred or classified for employment by
287 any employment agency or labor organization, admitted to membership or classified by
288 any labor organization, or admitted to or employed in any apprenticeship or other
289 training programs, in comparison with the total number or percentage of persons of such
290 age, race, creed, color, disability, religion, sex, national origin, ~~or~~ ancestry, sexual
291 orientation or gender identity in the city or other area.

292

293 Sec. 62-37. - Complaints generally.

294

295 Any individual who claims to have been grieved by an employment practice made
296 unlawful under this ~~chapter article~~, referred to in this ~~chapter article~~ as a "discriminatory
297 practice," may file a complaint in writing with the commission. The complaint shall be
298 under oath and shall contain such information and be in such a form as the commission
299 shall require. Immediately upon the filing of a complaint, the commission shall furnish a
300 copy of the complaint to the person alleged to have committed an unlawful
301 discriminatory practice. All investigations, penalties, and other processes related to
302 complaints of discriminatory practices in the areas of fair housing, employment, and
303 public accommodations shall be conducted pursuant to guidelines established in this
304 article.

305

306 Sec. 62-38. - Time limit for filing complaint; answer to complaint.

307

308 A complaint under section 62-37 shall be filed within ~~60~~⁴⁵ days after the alleged
309 discriminatory practice occurred. The written complaint shall state the facts upon which
310 the complainant believes that a discriminatory practice unlawful under this article has
311 occurred. Complaints may be reasonably and fairly amended at any time with the
312 approval of the chairperson of the commission. The person complained about (referred
313 to in this article as the "respondent") may file an answer to a complaint against him,
314 which may also be amended with the permission of the chairperson of the commission,
315 which shall be granted whenever it is reasonable and fair to do so. Complaints and
316 answers to complaints shall be verified.

317

318 Sec. 62-40. - Investigatory powers of commission.

319

320 In the course of any investigation authorized under this article, the commission shall
321 have access at all reasonable times to premises, records, documents, individuals or
322 other evidence or possible sources of evidence, and may examine, record and copy

323 such materials and take and record the testimony or statements of such persons as are
324 reasonably necessary for the furtherance of the investigation as interpreted by *Yellow*
325 *Freight Sys., Inc. v. Mayor's Commission on Human Rights of City of Springfield.* The
326 chairperson of the commission shall have the power to issue subpoenas to compel
327 witnesses to attend public or private meetings during the investigatory process under
328 section 62-39 and to produce at such meetings relevant books or records with regard to
329 the matter under investigation; provided, however, no such subpoena shall require any
330 appearance during any such investigatory stage sooner than five days from the date
331 such subpoena shall be served, and the party subpoenaed shall have three days from
332 the date of service to move the municipal court to quash the subpoena. If such a motion
333 is made, the court may continue the date for compliance with such subpoena as
334 necessary to rule on the motion, but for no longer than ten days from the original date
335 set for compliance. A copy of such motion shall be served upon the city attorney as
336 counsel for the mayor's commission.

337

338 Section 3 – The Springfield City Code, Chapter 62, Human Rights, is hereby
339 amended by moving the section entitled Minority business enterprise program from
340 Section 62-42 and placing it in Chapter 62, Human Rights, Article I, Generally, as
341 Section 62-1.

342

343 Section 4 – The Springfield City Code, Chapter 62, Human Rights, Article II, Fair
344 Employment Practices, Division 1, Generally, is hereby adding new Sections 62-43, 62-
345 44 and 62-45, as follows:

346

347 Sec. 62-43. - Dispute Resolution, Finding of Probable Cause.

348

349 (a) In addition to the investigatory powers enumerated in section 62-40, before
350 investigating a complaint of discriminatory practices in the areas of employment,
351 fair housing, or public accommodations, the commission shall determine if the
352 complainant and respondent are willing to resolve the issues described in the
353 complaint through mediation or some other method of dispute resolution. If the
354 complainant and respondent are willing, the investigator shall facilitate dispute
355 resolution. The complainant and respondent may engage in dispute resolution at
356 any stage in the process. If the complainant and respondent resolve the dispute
357 prior to investigation, the case shall be closed.

358

359 (b) If the complainant and respondent are unwilling to attempt dispute resolution or
360 are unsuccessful in such an attempt, the investigator shall promptly investigate
361 the allegations of the complaint.

362

363 (c) After completing the investigation, the commissioners conducting the
364 investigation shall report to the commission the results of the investigation and
365 their opinion on whether there is probable cause to credit the allegations of the
366 complaint.

367

368 (d) After receiving the investigation report, the commission may direct further
369 investigation. When the commission is satisfied that the complaint has been
370 properly investigated, it shall determine whether there is probable cause to credit

371 the allegations of the complaint. If the commission determines that there is no
372 probable cause, it shall dismiss the complaint. If the commission determines that
373 there is probable cause, it shall attempt to have the issue resolved through
374 mediation or some other method of dispute resolution. If the respondent is
375 unwilling to participate in dispute resolution, or the dispute resolution does not
376 successfully resolve the complaint, the commission may forward the matter to the
377 city prosecutor.

378
379 (e) At any stage in the process, prior to the referral to the city prosecutor, the
380 commission may close its investigation and dismiss the complaint. Such reasons
381 shall include but not be limited to the following:

- 382 1. There is no probable cause to credit the complaint;
- 383 2. The complainant has failed to cooperate with the commission;
- 384 3. The commission is unable to locate the complainant or respondent;
- 385 4. The complainant wishes to withdraw the complaint;
- 386 5. The subject matter of the complaint has been satisfactorily investigated and
387 resolved by another governmental agency; or
- 388 6. The complainant has filed a lawsuit against respondent involving the subject
389 matter of the complaint.

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396
397 Sec. 62-44. - Prosecution; time limitations.

398
399 (a) No prosecution for a violation of any provision of this chapter, other than
400 section 62-45, shall be commenced unless a complaint shall have first been
401 filed with the commission and efforts of the commission to eliminate the alleged
402 violation have failed.

403
404 ~~(b) The period of limitation for any violation of this article shall not run during any~~
405 ~~time while a complaint involving the alleged violation is pending before the~~
406 ~~commission.~~

407
408 Sec. 62-45. - Unlawful retaliation; false complaints.

409
410 (a) It shall be unlawful for any person to retaliate or discriminate in any manner
411 against any other person because such person has opposed any practice
412 prohibited by this chapter or because such person has filed a complaint, assisted
413 or participated in any manner in any proceeding conducted pursuant to this
414 article.

415
416 (b) It shall be unlawful to knowingly make a false complaint under the provisions of
417 this article. Any person knowingly making a false complaint shall, upon
418 conviction thereof, be punished as provided by section 1-7.

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Section 5 – The Springfield City Code, Chapter 62, Human Rights, Article III, Fair Housing, Sections 62-133, 62-134, 62-135, 62-136, 62-137, 62-139 and 62-148 are hereby amended as follows:

Sec. 62-133. - Penalty.

Any person who shall violate any of the provisions of this article ~~or who shall fail to obey process issued under section 62-143 requiring attendance at a meeting and/or the production of documents at a meeting~~ shall be punished upon conviction thereof in a municipal court as provided by section 1-7.

Sec. 62-134. - Discrimination in sale or rental of real property.

It shall be unlawful for any person to:

- (1) Refuse to sell or rent after receipt of a bona fide offer for, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, real property to any person because of that person's race, creed, color, sex, religion, disability, familial status, national origin, or ancestry, sexual orientation or gender identity.
- (2) Discriminate against any person in the terms, conditions or privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because of race, creed, color, sex, religion, disability, familial status, national origin, or ancestry, sexual orientation or gender identity.
- (3) Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of real property that indicates any preference, limitation or discrimination based on race, creed, color, sex, religion, disability, familial status, national origin, or ancestry, sexual orientation or gender identity, or an intention to make any such preference, limitation or discrimination.
- (4) Represent to anyone because of race, creed, color, sex, religion, disability, familial status, national origin, or ancestry, sexual orientation or gender identity that any real property is not available for inspection, sale or rental when such real property is in fact so available.
- (5) For profit, induce or attempt to induce anyone to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of persons of a particular race, creed, color, sex, religion, disability, familial status, national origin, or ancestry, sexual orientation or gender identity.

Sec. 62-135. - Discrimination in residential real estate related transactions.

467 (a) *Generally*. It shall be unlawful for any person or other entity whose business
468 includes engaging in residential real estate related transactions to discriminate
469 against any person in making available such a transaction, or in the terms or
470 conditions of such a transaction, because of race, color, religion, sex, disability,
471 familial status, ~~or~~ national origin, sexual orientation or gender identity.

472
473 (b) Definition. As used in this section, the term "residential real estate related
474 transaction" means any of the following:

475
476 1. The making or purchase of loans or providing other financial assistance:

- 477
478 a. For purchasing, constructing, improving, repairing or maintaining a
479 dwelling; or
480
481 b. Secured by residential real estate.

482
483 2. The selling, brokering or appraising of residential real property.

484
485 (c) *Appraisals*. Nothing in this article prohibits a person engaged in the business of
486 furnishing appraisals of real property from taking into consideration factors other
487 than race, color, religion, national origin, sex, disability, ~~or~~ familial status, sexual
488 orientation or gender identity.

489
490 Sec. 62-136. - Discrimination in provision of brokerage services.

491
492 It shall be unlawful for any person to deny to any other person access to or membership
493 or participation in any multiple listing service, real estate brokers' association or other
494 service organization or facility relating to the business of selling or renting real property,
495 or to discriminate against any person in terms or conditions of such access,
496 membership or participation, because of race, creed, color, sex, religion, disability,
497 familial status, national origin, ~~or~~ ancestry, sexual orientation or gender identity.

498
499 Sec. 62-137. Exceptions.

500
501 (a) ~~Religious organizations and private clubs exception.~~ Nothing in this article shall
502 be taken to prohibit a religious organization, association or society, or any
503 nonprofit institution or organization operated, supervised or controlled by or in
504 conjunction with a religious organization, association or society from:

505
506 (1) limiting the sale, rental or occupancy of dwellings ~~real property~~ which it owns
507 or operates for other than a commercial purpose to persons of the same
508 religion ~~or from giving preference to such persons~~, unless membership in
509 such religion, organization or society is restricted on account of race, color or
510 national origin; or

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512 (2) giving preference to persons of the same religion, unless membership in such
513 religion, organization or society is restricted on account of race, color or
514 national origin.

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(b) Private clubs exception.

~~Nothing in this article shall be taken to nor shall anything in this article prohibit~~ a private club, not in fact open to the public, which as an incident to its primary purpose provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members, unless membership in such private club is restricted on account of race, color or national origin.

(c) Rental to a particular sex exception.

Nothing in this article shall be taken to prohibit the renting of property to individuals of a particular sex when the facility is being rented to roomers or when the facility is a multifamily dwelling containing less than five dwelling units and the owner of such facility lives on the premises.

~~(d)~~ (e) Occupancy restrictions; housing for older persons; persons convicted of making or distributing controlled substances.

- (1) Nothing in this article limits the applicability of any other restrictions of this Code regarding the maximum number of occupants permitted to occupy a dwelling, nor does any provision in this article regarding familial status apply with respect to housing for older persons.
- (2) As used in this section, the term "housing for older persons" means housing as defined in 42 USC 3607.
- (3) Housing shall not fail to meet the requirements for housing for older persons for any of the reasons set forth in 42 USC 3607.
- (4) Nothing in this article prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in 21 USC 802.

Sec. 62-139. - Complaints, Investigations, Penalties. ~~Complaints generally.~~

Any person who claims to have been injured by a discriminatory practice as made unlawful by this article (referred to in this article as the "complainant") may file a complaint in writing with the commission. The investigation of those complaints, penalties associated, and all other related processes shall be conducted pursuant to article 2, division 1 of this chapter. ~~Complaints shall contain such information and be in such a form as the commission shall require. Immediately upon the filing of a complaint, the commission shall furnish a copy of the complaint to the person alleged to have committed an unlawful discriminatory practice.~~

Sec. 62-148. - Enforcement by city attorney.

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~~(a) The commission, in the event of a failure to secure voluntary compliance with the requirements of this article, shall cause the chairperson thereof to certify, in writing, to the city attorney that all reasonable efforts of the commission to secure conciliation and compliance are concluded in the matter, and the commission shall, with such certification, transmit the commission file and the transcript of the meeting, if any, to the city attorney and in all other respects cooperate with him.~~

~~(b) Upon certification by the commission, the city attorney, if he finds that there is probable cause to believe that a violation of any of the provisions of this article has occurred and that there is probable cause to believe that the respondent is guilty of that violation, may institute proceedings in municipal court for prosecution of the violation.~~

~~(a)~~ (c) Whenever the city attorney has reasonable and probable cause to believe that any person or group of persons has engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this article, or that any group of persons has been denied any of the rights granted by this article, he may bring a civil action in the circuit court of the county, setting forth in his petition in such cause the facts and requesting such preventive relief, including injunctive relief, against the person responsible for the pattern or practice of resistance as to him may seem reasonably necessary to ensure the full enjoyment of the rights granted by this article and to prevent such violations thereof.

~~(b)~~ (d) The commission may certify complaints directly to the city attorney's office for legal action under this section without conducting a meeting whenever the commission finds that any person or group of persons has engaged in a continued pattern of resistance to the full enjoyment of any of the rights granted under this article. The filing of previous complaints and the finding of probable cause for such complaints by the commission against a person shall constitute grounds for the commission finding that such person is engaged in a continued pattern of resistance to the full enjoyment of the rights granted by this article.

Section 6 –The Springfield City Code, Chapter 62, Human Rights, Article III, Fair Housing, sections 62-140, 62-141, 62-142, 62-143, 62-144, 62-145, 62-149, and 62-150 shall be repealed.

Section 7 – The Springfield City Code, Chapter 62, Article IV, Public Accommodations, sections 62-181, 62-182 and 62-183 shall be amended as follows:

Sec. 62-181. - Definitions.

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

Discriminatory practice means an act that is unlawful under section 62-182 or 62-187.

611
612 *Hotel and motel* means every establishment offering lodging to transient guests for
613 compensation, other than bona fide private clubs.

614
615 *Passenger transportation system* means publicly or privately owned, operated or
616 managed buses, taxicabs, airlines, airplanes or trains normally carrying passengers for
617 hire within or from the city, and shall include all of the stations, terminals and facilities
618 appurtenant thereto.

619
620 *Place of entertainment* means those places, things or events open to the public, such as
621 motion picture theaters, legitimate theaters, circuses, fairs, carnivals, athletic exhibitions
622 or contests including but not limited to boxing, wrestling, football and baseball
623 exhibitions and contests, athletic fields, amusement parks, playgrounds and parks,
624 bowling alleys, swimming pools, auto races, pool halls, dances and dance halls, golf
625 courses, shooting galleries and ranges, skating rinks, miniature golf courses, fireworks
626 shows or exhibitions, go-cart tracks, horse, dog and flower shows and exhibits, beauty
627 shows or pageants, and all other similar places, exhibitions or contests open to the
628 public, whether publicly or privately owned, operated or managed.

629
630 *Restaurant* means every cafe, cafeteria, coffeeshop, sandwich shop, snackbar, supper
631 club, soda fountain, ice cream parlor, luncheonette, tavern or bar or other similar
632 establishment which offers food or drink for purchase and consumption on the
633 premises, other than bona fide private clubs.

634
635 *Services* means professional, semiprofessional, personal, educational or commercial.

636
637 Sec. 62-182. - Discrimination prohibited.

638
639 It shall be unlawful for any person offering for a consideration services, public
640 accommodations or passenger transportation, or for the agent, operator or manager of
641 such person, to refuse, withhold from or deny to any person such services, public
642 accommodations or passenger transportation for any reason, directly or indirectly,
643 related to the age, race, creed, color, sex, religion, ancestry, national origin, ~~or~~ disability,
644 sexual orientation or gender identity of such person. However, nothing contained in this
645 section shall be construed to prohibit any person from having a special event such as
646 women's bowling night, men's bowling night, women's or men's bridge night, or other
647 similar events which limit the event or activity to individuals of a particular sex, ~~except~~
648 ~~such special events shall not occur on a regular basis so as to defeat the intent of this~~
649 ~~section.~~

650
651 Sec. 62-183. - Complaints, Investigations, Penalties, generally. ~~Filing, investigation and~~
652 ~~resolution of complaints; enforcement by city attorney.~~

653
654 All complaints of discriminatory practices shall be heard by the commission, and the
655 investigation of those complaints, penalties associated, and all other related processes
656 shall be conducted pursuant to section 62-37.

657
658 ~~1. The mayor's commission on human rights and community relations shall receive and~~

659 investigate, in accordance with rules established by the commission, all complaints
660 of alleged violations of this article, with assistance from the staff of the law
661 department of the city and any other persons whom the commission may find useful
662 in the investigation and processing of the complaint. Any three members of the
663 mayor's commission shall have the power to act on behalf of the whole commission
664 in a matter concerning this article. The chairperson of the commission shall have the
665 power to issue subpoenas to compel witnesses to attend public or private meetings
666 and to produce at such meetings relevant books or records with regard to the matter
667 under investigation. The failure to comply with any such subpoena shall be
668 punishable in municipal court in accordance with the provisions of section 1-7;
669 provided, however, no subpoena shall require any appearance within five days from
670 the date such subpoena shall be served and the parties subpoenaed shall have
671 three days from the date of service to move the municipal court to quash the
672 subpoena. If such a motion is made, the court may continue the time for compliance
673 with such subpoena as necessary to rule on the motion, but for no longer than ten
674 days from the original date set for appearance. A copy of such motion is to be
675 served upon the city attorney as counsel for the mayor's commission. The
676 chairperson of the commission or any member of the commission directed to
677 investigate a complaint shall have the power to place any person under oath relating
678 to any matter under investigation.

679
680 2. ~~No complaint shall be filed more than 60 days after the date of the alleged violation~~
681 ~~of section 62-182, and all complaints shall be in writing and under oath. After the~~
682 ~~filing of any complaint, the chairperson shall appoint at least two and not more than~~
683 ~~three commissioners to promptly investigate the complaint. If it is determined after~~
684 ~~the investigation that probable cause exists for crediting the allegations of the~~
685 ~~complaint, the commissioners shall immediately endeavor to eliminate the unlawful~~
686 ~~discriminatory practice complained of by conference, conciliation and persuasion,~~
687 ~~and shall report the results to the entire commission. The investigation,~~
688 ~~determination of probable cause and conciliation shall be conducted according to~~
689 ~~such rules, regulations and guidelines as the commission shall prescribe. The~~
690 ~~members of the commission and its staff shall not disclose the content of the report~~
691 ~~or what has transpired in the course of such endeavors.~~

692
693 3. ~~The commission, or those representing the whole commission, shall determine~~
694 ~~whether probable cause exists to believe that the complaint is justified, and shall~~
695 ~~adjust complaints by education, persuasion and conciliation if possible, as promptly~~
696 ~~as possible, within the applicable time limits.~~

697
698 4. ~~If the commission or those acting on behalf of the commission find that their efforts~~
699 ~~are unsuccessful, or in any event if the complaint shall not have been resolved within~~
700 ~~the maximum time after receipt of the complaint, the commission shall at such time~~
701 ~~refer the complaint to the law department of the city with the commission's~~
702 ~~recommendation thereon, with a copy thereof to be sent to the complainant and to~~
703 ~~the person complained about by ordinary mail.~~

704
705 5. ~~The commission may certify complaints directly to the city attorney's office for legal~~
706 ~~action under this section without conducting a meeting whenever the commission~~

707 ~~finds that any person or group of persons has engaged in a continued pattern of~~
708 ~~resistance of full employment of any of the rights granted under this article. The filing~~
709 ~~of previous complaints and the findings of probable cause for such complaints by the~~
710 ~~commission against a person shall constitute grounds for the commission finding~~
711 ~~that such person is engaged in a continued pattern of resistance to the full~~
712 ~~employment of the rights granted in this article.~~

713
714 Section 8–The Springfield City Code, Chapter 62, Human Rights, Article IV,
715 Public Accommodations, section 62-184 shall be repealed in its entirety.
716

717 Section 9 – Severability Clause. If any section, subsection, sentence, clause or
718 phrase of this ordinance is for any reason held to be invalid or unenforceable, to the
719 extent the remainder of this ordinance can be validly and reasonably interpreted and
720 enforced, such decision shall not affect the validity of the remaining portions of this
721 ordinance.
722

723 Section 10 – This ordinance shall be in full force and effect from and after
724 passage.
725

726 Passed at meeting: October 13, 2014
727

728 
729 _____
730 Mayor

731
732 Attest: Brenda M. Citter, City Clerk
733

734 Filed as Ordinance: October 13, 2014
735

736
737 Approved as to form: Sarah Kerner, Assistant City Attorney
738

739
740 Approved for Council action: Greg Bunt, City Manager

EXPLANATION TO COUNCIL BILL NO. 2014-_____

FILED: 09-02-14

ORIGINATING DEPARTMENT: Law

PURPOSE: To amend Chapter 2, Administration, Article IV, Boards, Commissions and Committees, Division 4, Mayor’s Commission on Human Rights and Community Relations, section 2-223; and Chapter 62, Human Rights, to add sexual orientation and gender identity to the list of categories of persons protected from discrimination, to consolidate the Commission’s investigative process into a single division of the Code, and to clarify the Commission’s powers in light of recent court decisions.

BACKGROUND:

The classes of individuals currently protected under Chapter 62 are age, race, creed, color, disability, religion, sex, national origin and ancestry. Chapter 62 deals with discrimination in three areas: Employment, Housing, and Public Accommodations. This protection is enforced by the Mayor’s Commission on Human Rights and Community Relations, which is established under Chapter 2 of the City Code.

This bill was drafted at the request of the Community Involvement Committee, for the purpose of adding sexual orientation and gender identity to the protected classes under Chapter 62 of the City Code. The proposed amendment to Section 62-137 is to clarify exceptions relating to religious organizations in the area of Housing.

The bill also deletes a number of repetitive sections for the purpose of combining all the administrative provisions of the Chapter into a single division. Finally, Sections 62-142 through 147 were deleted to clarify the Commission’s powers due to the decision in *Yellow Freight System v. Mayor’s Commission on Human Rights* (Mo. App. Ct. S.D. 1987).

Here is a chart showing the proposed deleted sections and the remaining sections that mirror them:

Deleted section	Remaining section
62-140	62-38
62-141	62-39
62-142 – 62-147	Deleted because of <i>Yellow Freight</i> case
62-149	62-40
62-150	62-41
62-184	62-45

Submitted by:



Dan Wichmer, City Attorney

Approved by:



Greg Burris, City Manager