



City Commission Agenda Cover Memorandum

Originating Department:	Meeting Type:	Advertised:	ACM#:
City Attorney (CA)	Regular	Required?: <input type="radio"/> Yes <input checked="" type="radio"/> No	22995
	Agenda Date:		
	07/27/2020		

Subject:

Public Hearing and First Reading of Ordinance No. 4905-20 amending City Code Section 42-32, defining "Employers" at a lower threshold number of employees needed to bring employers within the ambit of City's equal opportunity laws.

Ordinance/Resolution:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 42 (HUMAN RELATIONS), ARTICLE II (EQUAL OPPORTUNITY), SECTION 42-32 (DEFINITIONS) OF THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, TO EXPAND THE DEFINITION OF EMPLOYERS SUBJECT TO THE CITY'S EQUAL OPPORTUNITY LAW PROHIBITING DISCRIMINATION BASED ON PROTECTED STATUS; PROVIDING A CODIFICATION CLAUSE; PROVIDING A CONFLICTS AND SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

Staff Recommended Motion:

Approve Ordinance No. 4905-20 at First Reading and schedule for a Second Reading to be heard on August 10, 2020.

Background:

Counties in and around the City of West Palm Beach, including but not limited to Broward, Leon, Miami-Dade, Orange, and Pinellas counties, have equal opportunity laws that generally define "employer" to include those with five or more employees for between four and 20 or more calendar weeks per year (the years calculated variously), whereas currently, the City's Code, at Sec. 42-32, defines employers subject to the City's equal opportunity laws as those employing "15 or more employees . . . in each of the four or more calendar weeks in the current calendar year." In order to maintain its commitment to and leadership in the area of equal opportunities in employment, housing, and public accommodations, and particularly on the heels of the Supreme Court's June 15, 2020 decision extending federal law protection to gay and transgender persons in employment matters, City Administration seeks, through the mayor's initiative, to lower the number of threshold employees, which will make employers subject to the City's equal opportunity law to more closely align with its like-minded counterparts in the state.

Fiscal Note

Current Year: Annualized: Budgeted: Unbudgeted: Funding Source:

Comment:

Electronic Attachments: [Click here for assistance with naming convention.](#)

Is this ACM related to a **Grant**? ☐ Yes ☒ No

Is this ACM related to **Housing**? ☐ Yes ☒ No

Originating Department - Approved by: Kimberly Rothenburg on 07/14/2020

Kimberly L. Rothenburg

Agenda
Category/Status

[Action requested by Reviewer before approval .](#)

07/14/2020 City Attorney's Department

Zoe Panowitz

07/14/2020 Human Resources Department

07/14/2020 City Administrator

Maire Johnson

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AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 42 (HUMAN RELATIONS), ARTICLE II (EQUAL OPPORTUNITY), SECTION 42-32 (DEFINITIONS) OF THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, TO EXPAND THE DEFINITION OF EMPLOYERS SUBJECT TO THE CITY'S EQUAL OPPORTUNITY LAW PROHIBITING DISCRIMINATION BASED ON PROTECTED STATUS; PROVIDING A CODIFICATION CLAUSE; PROVIDING A CONFLICTS AND SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City prides itself on being an equal opportunity leader, in recognition that all persons deserve equal opportunities in employment, housing and public accommodations of the person's choice without regard to race, color, national origin, religion, sex, gender identity or expression, genetic information, sexual orientation, disability, marital status, familial status, or age; and

WHEREAS, in recognition of the recent United States Supreme Court decision in *Bostock v. Clayton County, Georgia*, __ S.Ct. __ (2020), protecting gay and transgender persons from discrimination in employment, it is in the City's best interest to re-affirm its leadership commitment to equal opportunities on par with or exceeding neighboring and other governmental entities sharing the same vision and goals; and

WHEREAS, in consideration of ordinances in Broward, Leon, Miami-Dade, Orange and Pinellas counties, which perceptively define the term "employer" more expansively than the City's by using a five employee benchmark, calculated from four to 20 weeks per calendar year, as compared to the City's current minimum threshold of 15 employees per four calendar weeks in a year; and

WHEREAS, amending the current code will provide greater protection for all persons, regardless of their protected status, in attaining employment, housing and public accommodations; and

WHEREAS, the city commission finds that it is in the best public interest to amend the code to bring employers with five (5) employees under the purview of the City's commitment to equal opportunities for all;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: The City Commission of the City of West Palm Beach, Florida hereby amends the Code of Ordinances at Chapter 42 (Human Relations), Article II (Equal Opportunity), at subsection 42-32 (Definitions), which shall read as follows:

Language underlined added, and language stricken deleted.

Asterisks **** indicate language not amended which has been omitted to save space.

20-25775/zp/071720

ARTICLE II. EQUAL OPPORTUNITY

Sec. 42-32. – 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:

* * * *

Employer means any person who employs ~~45~~ five (5) or more employees for wages, salaries or commission within the city, exclusive of parents, spouse or children, in each of the four or more calendar weeks in the current calendar year. For the purposes of this article, an employer is also any person acting on behalf of an employer, directly or indirectly.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: Should any section or provision of this Ordinance or any portion, paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION 4: Authority is hereby granted to codify the text amendments set forth in Section 1 of this Ordinance.

SECTION 5: This Ordinance shall take effect in accordance with law.

FIRST READING THIS 27TH DAY OF JULY, 2020

SECOND READING AND FINAL PASSAGE THIS

(CORPORATE SEAL)

**CITY OF WEST PALM BEACH
BY ITS CITY COMMISSION**

ATTEST:

CITY CLERK

PRESIDING OFFICER

CITY ATTORNEY'S OFFICE
Approved as to form and legality
By: _____