

ORDINANCE NO. ____

**AN ORDINANCE TO ADOPT A NONDISCRIMINATION ORDINANCE FOR
THE CITY OF MONTGOMERY**

WHEREAS, the City of Montgomery is considered the birthplace of the Civil Rights Movement and the Capital of Dreams and desires to protect and enrich the rights of all citizens; and,

WHEREAS, the City of Montgomery desires to have a robust local economy with a competitive workforce, and workplace equality is good for business;

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
MONTGOMERY, ALABAMA:**

SECTION 1.

This Ordinance may be referenced as “The City of Montgomery Non-Discrimination Ordinance”.

- (a) *Purpose and intent.* It is the intent and purpose of this article to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status. This article is enacted to promote the public health and welfare of all persons who live and work in the City of Montgomery. It is important for the city to ensure that all persons within the city have equal access to employment, housing, public accommodations, and education.
- (b) *Definitions.* Solely for the purposes of this article, the following terms shall have the following meanings:
 - (1) *City contractor.* Any person, corporation, or entity that has a contract to do business with the City of Montgomery.
 - (2) *Discriminate, discrimination or discriminatory.* Any act, policy or practice that, regardless of intent, has the effect of subjecting any person to differential treatment, including harassment as a result of that person’s real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status.
 - (3) *Employee.* Any individual employed by or seeking employment from an employer, excluding any individual employed by his or her parents, spouse, or child.

- (4) *Employer*. A person who employs one or more employees in the City of Montgomery, or any agent of such person. Employer shall include the City of Montgomery and any city contractor.
 - (5) *Familial status*. An individual's past, current or prospective status as parent or legal guardian to a child or children below the age of eighteen who may or may not reside with that individual.
 - (6) *Gender identity*. The actual or perceived gender-related identity, expression, appearance, or mannerisms, or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.
 - (7) *Marital status*. An individual's past, current, or prospective status as single, married, domestically partnered, in a civil union, divorced, or widowed.
 - (8) *National origin*. An individual's or his or her ancestor's place of origin.
 - (9) *Place of public resort, accommodation, assemblage, or amusement*. Any place, store, or other establishment, either licensed or unlicensed, that supplies accommodations, goods, or services to the general public, or that solicits or accepts the patronage or trade of the general public, or that is supported directly or indirectly by government funds. *Religion*. All aspects of religious belief, observance, and practice.
 - (10) *Sexual orientation*. an individual's physical, romantic, and/or emotional attraction to people of the same and/or different gender.
 - (11) *Veteran status*. An individual's status as one who served in the active military, naval, or air service.
 - (12) *Disability*. Someone who (1) has a physical or mental impairment that substantially limits one or more "major life activities," (2) has a record of such impairment, or (3) is regarded as having such an impairment.
- (c) *Workplace discrimination prohibited*. The protection of the right of an otherwise qualified person to be free from discrimination in employment because of that person's real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status is recognized as necessary to promote the public health, safety and welfare of residents and employees within the city. No person shall discriminate against an otherwise qualified person's right to obtain and hold employment and the benefits associated therewith without discrimination.
- (d) *Other forms of discrimination prohibited*. The protection of the right of an otherwise qualified person to be free from discrimination because of that person's real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status is recognized

as necessary to promote the public health, safety and welfare of residents and employees within the city. No person shall discriminate against an otherwise qualified person's rights, including, but not limited to, all of the following:

- (1) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement without discrimination.
 - (2) The right to engage in property transactions, including obtaining housing for rental or sale and credit therefor, without discrimination.
 - (3) The right to obtain an education free from discrimination in a safe and supportive learning environment in any educational institution.
 - (4) The right to exercise any right granted under this article without suffering coercion or retaliation.
- (e) *Exceptions.* Notwithstanding the foregoing, the following are not discriminatory practices prohibited by subsection (d):
- (1) A religious corporation, association, or society, including religious schools, that employs an individual of a particular religion to perform work connected with the performance of religious activities by the corporation, association, or society.
 - (2) An employer who observes the conditions of a bona fide affirmative action plan or a bona fide seniority system which is not a pretext to evade the purposes of this ordinance.
 - (3) A religious corporation, association, or society, including religious schools, with respect to the employment of individuals whose positions would fall within the "ministerial exemption" as described by the United States Supreme Court in Our Lady of Guadalupe v. Morrissey-Berru, 140 S. Ct. 2049 (2020).
- (f) *Creation of Montgomery Human Rights Commission.* The purpose of the Montgomery Human Rights Commission ("Commission") shall be to promote principles of diversity, inclusion, and harmony in the City of Montgomery through education, community events, the provision of advice to the city council and mayor, and through receiving and resolving complaints filed under this article.
- (1) *Composition.* The Commission shall be composed of 10 members who shall be broadly representative of the population of the city, including representatives of the communities enumerated in this ordinance. The Mayor and Council shall each appoint one member to the commission for 4 year terms.

- (2) *Governance.* The Commission shall formulate its own procedures, and may create task forces or committees as it deems appropriate. These procedures are subject to review by the Mayor and City Council.
- (3) *Responsibilities.* The responsibilities of the Commission include managing Commission records and accounts, developing public education programs, providing training for Commission members, managing complaints, and any other tasks needed to help the Commission perform its functions. It may use the services of attorneys, clerks, or other city government employees or the services of contractors as necessary.
- (4) *Activities.* The Commission shall receive, initiate, investigate, and seek to conciliate, and refer cases to City Investigations if necessary alleging violations of this ordinance; The Commission's ability to investigate will be limited to obtaining information only available to the public since any meetings must be open meetings. City Investigations would have to investigate and review any evidence that does not constitute a public record. If there is a violation of this ordinance, by majority vote, the Commission can authorize a member to assist a victim in seeking to have a summons issued from municipal court and the case can be prosecuted; it shall present an annual report to the Mayor and City Council of its activities; it shall develop public education programs regarding compliance with this ordinance and equal opportunity and treatment of all individuals; and it shall engage in any other necessary action to effectuate its purpose and duties.

(g) *Enforcement.* Violations of this ordinance are enforceable pursuant to Sec. 1.6 of the Code of Ordinances for the City of Montgomery. Subject to the procedures the Commission develops, the Commission shall receive, initiate, investigate and seek to conciliate, alleging violations of this ordinance. If a complaint is not successfully conciliated, the Commission shall hear the matter and make a determination as to whether a violation of this ordinance has occurred. If the Commission determines that a violation has occurred, by majority vote, the Commission can authorize a member to assist a victim in obtaining a summons from the Municipal Court for an order to cease and desist from the discriminatory practice and levy a fine not to exceed \$500.00. All proceedings described herein shall be conducted in accordance with Alabama law.

(h) *Other Remedies.* This ordinance may not be construed to limit any other remedies available under local, state, or federal law.

SECTION 3. SEVERABILITY. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect upon its passage and publication as required by law.

ADOPTED this the _____ day of _____, 2021.

STEVEN L. REED, MAYOR

ATTEST:

BRENDA GALE BLALOCK, CITY CLERK