



Board and Commission Council Committee Agenda Item Request

Name of Board or Commission:

Human Rights Commission

Request Number: 20170123-05a:

Description of item: Discussion and possible action regarding a draft Code amendment to add prohibitions for retaliation to Chapter 5-2, Discrimination Public Accommodations

Board or Commission Vote to refer item to Council: Motion approved 9-0 on Commissioner Brown's motion, Commissioner Miguez's second. Those voting aye were: Chair Davis, Vice Chair Caballero, Commissioners Avashia, Brown, Casas, Miguez, Normand, Royall and Yang. Commissioner Miller abstained. Commissioner Buls was absent.

Date of Approval of Request: January 23, 2017

Attachments: ☒ Yes ☐ No

If yes, please list the attachments: Human Rights Commission Recommendation 20170123-05a

Attest:

Jonathan Babiak

Signature of Board/Commission Chair or Staff Liaison (Jonathan Babiak, Staff Liaison, Human Resources Department)

MAYOR'S OFFICE USE ONLY

Council Committee Assigned:

- | | | |
|--|---|--|
| <input type="checkbox"/> Audit & Finance | <input type="checkbox"/> Housing & Community Development | <input type="checkbox"/> Planning & Neighborhood |
| <input type="checkbox"/> AE Utility Oversight | <input type="checkbox"/> Mobility | <input type="checkbox"/> Public Safety |
| <input type="checkbox"/> Economic Opportunity | <input type="checkbox"/> Open Space, Environment & Sustainability | <input type="checkbox"/> Public Utilities |
| <input type="checkbox"/> Health & Human Services | | |

Recommend a Fiscal Analysis be completed?

Recommend a Legal Analysis be completed?

Notes:

Mayor Signature & Date:



BOARD/COMMISSION RECOMMENDATION

Human Rights Commission

Recommendation Number: 20170123-05a: Protection Against Discrimination in Public Accommodations

WHEREAS, the city of Austin ("City") welcomes all people and recognizes the rights of individuals to live their lives with dignity and equal respect for others, free from physical harm, discrimination, insults, intimidation and ridicule based race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; and

WHEREAS, Chapter 5-2 ("Chapter 5-2") of the City's Code Prohibits discrimination in the provision of accommodations, advantages, facilities, benefits, privileges, services or goods of public accommodations based on race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; and

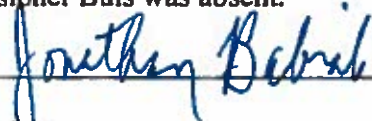
WHEREAS, Chapter 5-2, unlike federal law, fails to contain provisions prohibiting owners, operators or lessees of public accommodations from retaliating against individuals who oppose unlawful discrimination in public accommodations and/or from intimidating, threatening, coercing, punishing, or otherwise interfering with individuals who seek, on behalf of themselves or other persons, the nondiscriminatory exercise or enjoyment of any accommodation, advantage, facility, benefit, privilege, service or good of a public accommodation;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and each member of City Council, in accordance with the Human Rights Commission Recommendation No. 20140728-005 and City Council Resolution No. 20141016-027 (copies annexed hereto at Exhs. A and B), approve the draft Ordinance Amending Chapter 5-2 of the City Code Relating to Interference and Retaliation annexed hereto at Ex. C.

Date of Approval: January 23, 2017

Record of the vote: Motion approved 9-0 on Commissioner Brown's motion, Commissioner Miguez's second. Those voting aye were: Chair Davis, Vice Chair Caballero, Commissioners Avashia, Brown, Casas, Miguez, Normand, Royall and Yang. Commissioner Miller abstained. Commissioner Buls was absent.

Attest:

A handwritten signature in blue ink, reading "Jonathan Babiak", is written over a horizontal line.

Jonathan Babiak

Staff Liaison, Human Rights Commission

EXHIBIT A



COMMISSION RECOMMENDATION

HUMAN RIGHTS COMMISSION

Recommendation Number: 20140728-005: Amend City Code Chapter 5-2 to add broad protections substantially equivalent to the protections found in federal law to prohibit retaliation

WHEREAS, the City of Austin has a long history of promoting fair treatment and equal opportunity for all individuals in employment, housing, and public accommodations; and

WHEREAS, the Austin City Code prohibits retaliation against any person who exercises or assists another in exercising fair housing rights. City Code, Chapter 5-1 ("Housing Discrimination"); and

WHEREAS, the Austin City Code prohibits retaliation against any person who opposes an unlawful employment practice or exercises or assists another in exercising a right to be free of unlawful employment practices. City Code, Chapter 5-3 ("Discrimination in Employment Generally"); and

WHEREAS, the Austin City Code prohibits retaliation against persons who have opposed unlawful discrimination against a person who has AIDS or exercises or assists another in exercising a right to be free of such discrimination. City Code, Chapter 5-5 ("Discrimination against People with AIDS"); and

WHEREAS, the City Code provides no similar protections to prohibit retaliation against individuals who oppose unlawful discrimination in public accommodations or exercise or assist another in exercising a right to be free of such discrimination. *See* City Code, Chapter 5-2 ("Discrimination in Public Accommodations"); and

WHEREAS, Federal law prohibits retaliation for opposing public accommodations discrimination;

NOW THEREFORE, BE IT RESOLVED, that the Austin Human Rights Commission recommends City Council to amend City Code Chapter 5-2 to add broad protections substantially equivalent to the protections found in federal law to prohibit retaliation against individuals who oppose unlawful discrimination in public accommodations or exercise or assist another in exercising a right of fair and equal access to public accommodations.

Date of Approval: July 28, 2014

Record of the vote: 6-0, Commissioner Cortez absent

Attest:

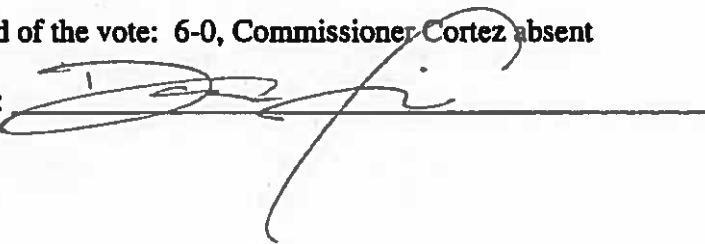
A handwritten signature in black ink, appearing to be "D. Cortez", is written over a horizontal line. The signature is stylized and extends above and below the line.

EXHIBIT B

RESOLUTION NO. 20141016-027

WHEREAS, the City Council created the Human Rights Commission to ensure that citizens are free from discrimination because of race, color, disability, religion, sex, national origin, sexual orientation, gender identity or age; and

WHEREAS, the Human Rights Commission has determined that local regulations do not protect individuals against retaliation for opposing discrimination relating to public accommodations; and

WHEREAS, the Human Rights Commission adopted Recommendation Number 20140728-005 (attached to this resolution as Exhibit A) that supports amending City Code Chapter 5-2 to prohibit retaliation against individuals who oppose unlawful discrimination in public accommodations or exercise or assist another in exercising a right of fair and equal access to public accommodations;
NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

City Council initiates an amendment to City Code Chapter 5-2 (*Discrimination in Public Accommodations*) to add broad protections substantially equivalent to the protections found in federal law to prohibit retaliation against individuals who oppose unlawful discrimination in public accommodations or

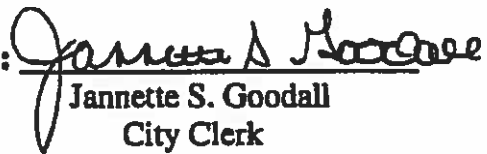
exercise or assist another in exercising a right of fair and equal access to public accommodations.

BE IT FURTHER RESOLVED:

The City Manager is directed to process the amendment and present to Council by January 31, 2015.

ADOPTED: October 16, 2014

ATTEST:


Jannette S. Goodall
City Clerk

RESOLUTION NO. 20141016-027

WHEREAS, the City Council created the Human Rights Commission to ensure that citizens are free from discrimination because of race, color, disability, religion, sex, national origin, sexual orientation, gender identity or age; and

WHEREAS, the Human Rights Commission has determined that local regulations do not protect individuals against retaliation for opposing discrimination relating to public accommodations; and

WHEREAS, the Human Rights Commission adopted Recommendation Number 20140728-005 (attached to this resolution as Exhibit A) that supports amending City Code Chapter 5-2 to prohibit retaliation against individuals who oppose unlawful discrimination in public accommodations or exercise or assist another in exercising a right of fair and equal access to public accommodations;
NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

City Council initiates an amendment to City Code Chapter 5-2 (*Discrimination in Public Accommodations*) to add broad protections substantially equivalent to the protections found in federal law to prohibit retaliation against individuals who oppose unlawful discrimination in public accommodations or

exercise or assist another in exercising a right of fair and equal access to public accommodations.

BE IT FURTHER RESOLVED:

The City Manager is directed to process the amendment and present to Council by January 31, 2015.

ADOPTED: October 16, 2014

ATTEST:

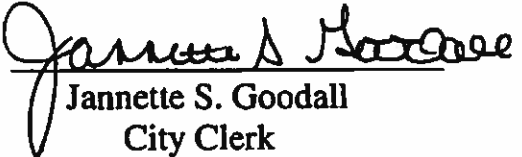

Jannette S. Goodall
City Clerk

EXHIBIT C

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 5-2 (*DISCRIMINATION IN PUBLIC ACCOMMODATIONS*) OF THE CITY CODE RELATING TO INTERFERENCE AND RETALIATION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 5-2-4 (*Prohibited Practices*) is amended to add new subsections (D) and (E) to read as follows:

(D) A person, including the owner, operator, or lessee of a public accommodation may not directly or indirectly:

(1) intimidate, threaten, coerce, punish, or interfere with any person in the exercise or enjoyment of any accommodation, advantage, facility, benefit, privilege, service, or good of a public accommodation secured by this Chapter; or

(2) intimidate, threaten, coerce, punish, or interfere with a person because such person aided or encouraged any other person in the exercise or enjoyment of any accommodation, advantage, facility, benefit, privilege, service, or good of a public accommodation secured by this Chapter.

(E) A person, including the owner, operator, or lessee of a public accommodation may not retaliate against an individual because that individual, in good faith,

(1) opposed a practice prohibited by this Chapter;

(2) made a charge; or

(3) testified, assisted, or participated in an investigation, proceeding, or hearing under this Chapter.

PART 2. This ordinance takes effect on _____, 2016.

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2 **PASSED AND APPROVED**
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6 _____, 2016

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§
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Steve Adler
Mayor

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11 **APPROVED:** _____
12 Anne L. Morgan
13 City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk