



*"...meeting community needs...enhancing quality of life."*

## MEMORANDUM

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TO: Safety & Licensing Committee Members  
FROM: Kathy Flores – Diversity & Inclusion  
CC: Karen Harkness, Community Development Director  
Mayor Hanna  
DATE: March 6, 2014  
RE: **Employment & Accommodations Nondiscrimination Ordinance**

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Over the past year, I've had dozens of conversations about the importance of protecting all people from discrimination. And nearly every conversation starts with people saying how shocked and surprised they are when they learn that today, in 2014, it is still legal to fire a hardworking employee from their job simply because they are transgender or gender nonconforming.

Under current state law, employers may not fire or demote an employee or deny employment or work shifts to a qualified employee based on an individual's race, color, creed, religion, national origin, sex, age, marital status, disability, sexual orientation and other identities. So, it is hard to believe that in 2014, transgender and gender nonconforming workers and community members are still not protected from this kind of discrimination under state or federal law, but it is true.

A vibrant, welcoming, successful and productive city is made possible by the talents, contributions and well-being of its diverse residents. We desire that the City of Appleton adopt a policy and then draft an ordinance so that the equal rights of all those who live and work in the city are assured and that equal rights and equal opportunities within the context of the larger commercial and social fabric of the Appleton community are promoted.

Here in Appleton, we believe in freedom and equality for all. With that freedom comes responsibility to protect all our residents from discrimination.

One avenue communities use to combat discrimination is through fair and equality housing, employment and accommodation laws. Seventeen states and more than 100 cities across America – including Madison and Milwaukee – have already passed similar nondiscrimination protections and implemented them successfully. Currently, Appleton does have fair housing laws in place, but we lack laws protecting everyone from employment and accommodation discrimination.

By adding nondiscrimination policies, the City of Appleton has a new tool to help protect our citizens from incidences of discrimination. The addition of an Appleton nondiscrimination ordinance will modernize the city's laws to ensure that all people, including transgender and gender nonconforming

individuals, will be protected from discrimination.

In addition to employment law, adding an accommodations piece to this law allows every customer to be treated equally as well.

It is time for the law to change so every customer and every worker, including those who are transgender or gender nonconforming, are judged by the content of their character – nothing more, nothing less. It's about striking a balance. We can give everyone an equal opportunity to live, work and enjoy Appleton.

We have been asked some questions from members of the Safety and Licensing Committee. I include those questions that were not answered in the memo.

**Question:** How would we enforce this ordinance?

**Answer:** Most communities with these protections have an equality commission established to work on issues of housing, employment and accommodations. It is my recommendation that Appleton create an equal opportunity oversight committee/commission for this purpose. That oversight committee would make recommendations to the Safety and Licensing Committee for further action. This committee/commission would consist of community members appointed by the Mayor who have experience in these issues. It would then be enforced similar to other violations.

**Question:** I would like an expanded understanding of what the meanings and implications are, in regard to the legal concerns to "family status, national origin/ancestry, source of lawful income or victims of domestic violence, sexual assault or stalking."

**Answer:** That language came from the Fair Housing ordinance. Fair Housing laws are often different than employment and accommodation laws. It is the suggestion of staff that our ordinance reflect our own internal policy language that follows State employment laws with the addition of Gender Identity and/or Gender Expression as a protected class.

The suggested City policy language for protected classes comes from our internal equal opportunity hiring policy.

It is the official policy of the City of Appleton to provide equal employment opportunities for all qualified and qualifiable persons without regard to race, color, creed, religion, national origin, ancestry, age, sex/gender, handicap or disability, arrest/conviction record, marital status, sexual orientation, gender identity and gender expression, political affiliation, results of genetic testing, honesty testing, pregnancy or childbirth, military service, disabled veteran or covered veteran status, service in the U.S. Armed Forces, the State Defense force, National Guard of any state, or any other reserve component of the United States or State military forces, use or nonuse of lawful products off the employer's premises during non-working hours, or any other non-merit factors, except where such factors constitute a bona fide occupational qualification or substantially relate to the circumstances of a particular job or licensed activity, and with proper regard for privacy and constitutional rights as citizens.

**Question:** What is the city's exposure increased lawsuits if someone determines that the city did not perform or respond appropriately to this ordinance?

**Answer:** Communities do not become defendants if they don't feel there isn't enough evidence to enforce a fine. An individual can still go through the court system against the business or person they feel discriminated against them, but like other ordinance violations, the city renders its decision through Safety and Licensing and those receiving the result would go through the same process as any other ordinance.

If you have any questions or comments, I welcome you to contact me at (920) 832-1564 or email at [Kathy.flores@appleton.org](mailto:Kathy.flores@appleton.org).