



BOARD OF COUNTY COMMISSIONERS

DATE: August 20, 2013

AGENDA ITEM NO. 31

Consent Agenda ☐

Regular Agenda ☐

Public Hearing ☒

County Administrator's Signature:

Subject:

Proposed Ordinance Amending Chapter 70 of the Pinellas County Code Relating to Human Relations, adding gender identity as a class of persons protected from discrimination in employment, housing, and places of public accommodation.

Department:

Human Rights

Staff Member Responsible:

Paul Valenti, Director

Recommended Action:

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS RECEIVE PUBLIC COMMENT AND ADOPT THE PROPOSED ORDINANCE AMENDING CHAPTER 70 OF THE PINELLAS COUNTY CODE RELATING TO HUMAN RELATIONS TO PROHIBIT DISCRIMINATION BASED ON GENDER IDENTITY.

Summary Explanation/Background:

The proposed ordinance would amend Chapter 70 of the Pinellas County Code, relating to Human Relations, to protect persons from discrimination in employment, housing, and places of public accommodation because of their gender-identity. The proposed ordinance does nothing to change the current exemptions and exceptions to Chapter 70's coverage. The proposed ordinance invests the Pinellas County Office of Human Rights with authority to enforce the provisions of this ordinance.

Fiscal Impact/Cost/Revenue Summary:

Minimal fiscal impact is anticipated. The Pinellas County Office of Human Rights would be responsible for enforcement of the amended ordinance, and staff believes enforcement can be effectuated with current resources.

Exhibits/Attachments Attached:

Memorandum from Director of Human Rights
Draft Ordinance – "Red-lined" Version
Draft Ordinance – "Clean" Version




Pinellas County Office of Human Rights

400 S. Fort Harrison Ave
Fifth Floor
Clearwater, FL 33756
(727) 464-4880
Fax: (727) 464-4157
Text Phone/TDD: (727) 464-4062

Memorandum from Office of Human Rights

To: Board of County Commissioners

Through: Robert LaSala, County Administrator

From: Paul Valenti, Director of Human Rights 

CC: Jim Bennett, Pinellas County Attorney
Michelle Wallace, Sr. Assistant County Attorney

Date: August 9, 2013

Re: **"Gender-Identity" as a Protected Class under Chapter 70 of the Pinellas County Codes Relating to Human Relations**

Background:

On August 6, 2013, the Board approved advertising a public hearing on this proposed ordinance, which, if passed, will amend Chapter 70 of the Pinellas County Code to protect gender identity and expression from discrimination in employment, housing, and places of public accommodation throughout Pinellas County. This public hearing is scheduled for Tuesday, August 20, 2013, at 6:00 PM.

As was stated at the Board's meeting on August 6th, nothing in the proposed ordinance would limit the current exemptions from, and exceptions to, Chapter 70's coverage as they currently exist.

Simply stated, the proposed ordinance will provide the Pinellas County Office of Human Rights with the same investigative and enforcement authority for claims of discrimination based on gender identity and expression to the same extent as currently provided for claims of discrimination based on race, color, religion, disability, national origin, age, and sexual orientation.

Copies of this proposed ordinance, one showing revisions to Chapter 70 (Exhibit A), and the other a "clean" version of the proposed ordinance (Exhibit B), are attached for your review.

Please address reply to:
Pinellas County Office of Human Rights
www.pinellascounty.org/humanrights
315 Court St.
Clearwater, FL 33756

Questions Raised/Information Requested at Board's August 6th Meeting:

Commissioners asked that the business community be afforded an opportunity to comment on the proposed ordinance. The St. Petersburg Chamber of Commerce has already expressed support for prohibiting discrimination based on gender identity or expression. Additionally, staff is canvassing other representatives of the business community for their comments. As there are strict deadlines by which memorandum must be provided in advance of meetings of the board, however, these comments (if any) will necessarily be provided at a later date, or at the public hearing on August 20th.

It was also suggested that staff review and answer those questions which arose the last time the Board of County Commissioners considered extending Chapter 70's coverage to include gender identity and expression.

As some Commissioners will recall, on June 3, 2008, the board was asked to approve advertising for a public hearing to consider an ordinance which, in all material respects, mirrors the one now under consideration. At that time, the motion to authorize advertising a public hearing received three votes, and the proposed ordinance advanced no further.

In many respects, the questions and concerns raised by Commissioners in 2008 are the same as those which have been raised at present.

For instance, questions were asked about the scope of coverage under Chapter 70, and exemptions and exceptions thereto. As discussed at the board's meeting on August 6, 2013, Chapter 70 does not apply to:

- The school district;
- Employers of less than five (5) employees;
- Religious institutions and organizations as an employer when the employment relates to the principles, tenets and beliefs of the religion, or for preferences in hiring co-religionists;
- Housing which is owner-occupied with four (4) or fewer units or living quarters;
- Individuals who own and sell 3 or fewer single family homes every two (2) years without the assistance of a real estate professional, or are not in the profession of selling or renting housing;
- Housing owned, operated or sponsored by religious organizations and institutions (except as it relates to race, color, and national origin), who may also accord preferences to co-religionists; and
- Private clubs which are truly private in nature, which may also accord preferences to members.

Nothing in the proposed ordinance changes any of these exceptions or exemptions to Chapter 70's coverage.

Other questions focused on the burden the proposed ordinance might impose on small employers and places of public accommodation.

For instance, one question raised was how an employer covered by the proposed ordinance would handle an employee transitioning their gender identity or expression.

In these instances, the employer should work with the employee in discussing how the transitioning process will be disclosed to co-workers, and the timing of the transitioning process. Consideration should be made for how the transitioning employee prefers to be addressed, and this should be communicated to co-workers as well. Employers should be considerate of the concerns of co-workers, but should not allow the fears or prejudices of some to dictate inferior assignments, work conditions, or consignment to remote, unsafe, unsanitary, or inferior rest room and break facilities. Co-workers should be advised that harassment of a transitioning employee will not be tolerated, and may be subject to appropriate discipline. The transitioning employee can and should be advised of workplace expectations, including performance metrics associated with their employment for which they may be held responsible to the same extent as any other employee. For larger employers, a written policy may be recommended, but the ordinance does not require one. Consistent adherence to the principles above will help insure covered employers remain compliant with the proposed ordinance.

Questions have also been raised regarding employees/patrons who are uncomfortable using single-sex facilities when a person who identifies with a sex different than their physiology, or their sex at birth, is using the same facilities at the same time. **It is important to underscore that under the proposed ordinance, unisex, sex neutral or "family" facilities are not required.** Should such facilities exist, however, all persons should be afforded the equal opportunity to make use of these facilities.

If people object to transgender individuals using "their" rest rooms, employers and places of public accommodation should strive to accommodate all employees'/patrons' use in an equitable and non-discriminatory manner, including consideration of "in-use" signs. Consideration can be made for co-designating a disabled accessible rest room as a unisex/accessible rest room as well.

These same principles apply to locker rooms, shower facilities, etc. - employers and places of public accommodation should endeavor to accommodate all employees'/patrons' use in an equitable and non-discriminatory manner,

including consideration of "in-use" signs, privacy stalls or screens, or other considerations for privacy for equal use by all.

As there are a number of ways in which an appropriate balance may be struck between the privacy concerns of all employees/patrons, it is impossible to delineate all of the ways in which employers and places of public accommodation can comply with the proposed ordinance. What is universal, however, is the guiding principle of affording a person access to use of facilities which correlates to their gender identity without consigning them to distant, inferior, unsafe or unsanitary options.

Staff further believes that common sense suggests people make use of separate sex facilities for the purposes for which they are intended, leaving when they are done. Moreover, any improper behavior which might occur in such facilities, whether voyeurism, inappropriate touching, invasions of privacy, or other misconduct, would be subject to the same possible sanctions as currently contemplated under the law, and which apply equally to all without regard to any protected characteristic - including gender-identity or expression. Nothing in the proposed ordinance would countenance, condone, or excuse inappropriate conduct.

Further, for many small employers and places of public accommodation, the separate-sex rest rooms available to employees or the public are limited to single occupancy. By their very nature, therefore, these facilities will afford the requisite privacy to preclude issues arising from the passage of this ordinance. Conversely, larger separate-sex rest room facilities usually have separate stalls, screens or dividers which afford privacy, and which also should preclude issues arising from the passage of this ordinance.

As also discussed, research conducted by staff suggests that none of the widespread nightmare scenarios raised by those opposed to prohibiting discrimination based on gender-identity have actually arisen. By way of example, when the County Council of Baltimore County, Maryland, considered a similar ordinance in 2012, the police chief for Montgomery County, Maryland, publicly debunked rumors that assaults against women had taken place in that county's public rest rooms after Montgomery County passed legislation protecting gender-identity.

The same is true for the City of Baltimore, Maryland, for Howard County, Maryland, and for the District of Columbia. The sensationalized fears of critics of such legislation failed to become reality in any of these jurisdictions.

Similarly, staff discussed this concern with colleagues in sister jurisdictions in Florida which have enacted protections against discrimination based on gender-identity and expression. They too report no increase in reports of assaults

against citizens in public rest rooms, showers, lockers, or other similar facilities separated by sex.

At the board's meeting on August 6, 2013, a question was asked regarding the necessity of using the word "expression" in defining gender and gender-identity. Staff believes it is absolutely necessary to maintain the definition of "gender" as currently worded in the proposed ordinance. Staff believes that the ability to self-identify with a particular sex would be rendered meaningless if one is not also allowed to express one's self in a manner consistent with the sex with which they identify. **Plainly stated, staff believes it affords little protection to allow a person to identify as female or male, but not express themselves (whether in clothing, appearance, comportment, demeanor or manner in which one carries one's self, manner to which one is referred, etc.) as female or male.**

Another question asked at the board's meeting on August 6, 2013, concerned the need to include the following language in defining "gender":

"...which gender-related identity can be shown by evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity, or not being asserted for an improper purpose."

Staff believes this language is also necessary, as we believe it reduces the likelihood that persons will falsely assert a gender identity or expression for the purposes of engaging in pranks, horseplay, or other improper purpose. Staff further believes that this language can be pivotal in determining compliance with the ordinance, preventing employers, housing providers, and places of public accommodation from being found in violation of the proposed ordinance in instances in which claimants are engaging in pranks, horseplay, or other improper purpose, or in instances when prior disclosure of the gender identity and expression has not been provided, and an employer or place of public accommodation prohibits use of a single-sex facility.

I look forward to providing answers to questions time did not allow in this memorandum, and any other questions the board may have, at the public hearing on August 20th. I also remain available at 4-4880 should you have any questions.

Exhibit A

“Red-lined”, or “Marked-up” version of Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY CODE BE REVISED BY AMENDING SECTIONS 70-51, 70-52, 70-53, 70-101, 70-103, 70-107, 70-176, 70-177, 70-178, 70-179, 70-181, 70-182, 70-211, 70-212, 70-213, 70-214, OF SAID CODE; AMENDING DIVISION II, EMPLOYMENT, DEFINITIONS, TO INCLUDE A DEFINITION OF GENDER; AMENDING DIVISION II, EMPLOYMENT, PURPOSES AND INTENT, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION II, EMPLOYMENT, UNLAWFUL PRACTICES, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, DEFINITIONS, TO INCLUDE A DEFINITION OF GENDER; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, PURPOSES AND INTENT, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, APPRAISALS, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, SALE OR RENTAL DISCRIMINATION, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, PROHIBITED PUBLICATION, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, FALSELY REPRESENTING AVAILABILITY, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, ENTRY INTO NEIGHBORHOOD, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, RESIDENTIAL REAL ESTATE RELATED TRANSACTIONS, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, BROKERAGE SERVICES, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, PROHIBITED DISCRIMINATION IN PUBLIC ACCOMMODATIONS, DEFINITIONS, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, PROHIBITED DISCRIMINATION IN PUBLIC ACCOMMODATIONS, PURPOSES AND INTENT, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, PROHIBITED DISCRIMINATION IN PUBLIC ACCOMMODATIONS, EXCEPTIONS FROM SUBDIVISION, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, PROHIBITED DISCRIMINATION IN PUBLIC ACCOMMODATIONS, DISCRIMINATION PROHIBITED, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AMENDMENT OF PROPOSED ORDINANCE AT PUBLIC HEARING; PROVIDING FOR AREAS EMBRACED.

WHEREAS, the Home Rule Charter of Pinellas County, Florida, Article III, Section 2.02(e) directs the Board of County Commissioners of Pinellas County, Florida, to establish provisions for the protection of human rights from discrimination; and

WHEREAS, the County has enacted Ordinance 92-14, as amended, which is codified at Chapter 70 of the Pinellas County Code, which establishes the means for providing and ensuring the equal rights and opportunities for all people of the County in the areas of employment, housing, and public accommodations; and

WHEREAS, the Board of County Commissioners desires to amend the provisions of Ordinance 92-14, as amended,- by substituting the word “gender,” which is defined as including but not limited to sex, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, gender-related self-identity, self-image, appearance, expression or behavior, whether or not such gender-related characteristics differ from those associated with the individual’s assigned sex at birth, for the word “sex”.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Pinellas County, Florida:

Section 1.

Section 70-51 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-51. Definitions.

Gender includes but is not limited to sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, gender-related self-identity, self-image, appearance, expression or behavior, whether or not such gender-related characteristics differ from those associated with the individual’s assigned sex or physiology at birth, which gender-related identity can be shown by evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person’s core identity, or not being asserted for an improper purpose.

Section 2.

Section 70-52 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-52. Purposes and intent.

- (a) (2) Secure for all individuals within the county the freedom from discrimination because of race, color, religion, national origin, ~~sex~~gender, sexual orientation, age, marital status, or disability in connection with employment, and thereby to promote the interests, rights and privileges of individuals within the county.

Section 3.

Section 70-53 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-53. Unlawful practices.

- (a) *Unlawful discrimination in employment practices.*

- (1) *Employers.* It is a discriminatory practice for an employer to:

- a. Fail or refuse to hire, discharge, or otherwise discriminate against an individual with respect to compensation or the terms, conditions, or privileges of employment because of race, color, religion, national origin, ~~sex~~gender, sexual orientation, age, marital status, or disability; or
- b. Limit, segregate, or classify an employee in a way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee because of race, color, religion, national origin, ~~sex~~gender, sexual orientation, age, marital status, or disability.
- c. The above described prohibited discrimination on the basis of ~~sex~~gender includes sexual harassment, including ~~same-sex—same-gender~~ sexual harassment, and pregnancy discrimination.

- (2) *Employment agencies.* It is a discriminatory practice for an employment agency on the basis of race, color, religion, national origin, ~~sex~~gender, sexual orientation, age, marital status, or disability to:

- a. Fail or refuse to refer for employment or otherwise discriminate against an individual; or
- b. Classify or refer for employment an individual on such a discriminatory basis.

- (3) *Labor organizations.* It is a discriminatory practice for a labor organization to:
- a. Exclude or to expel from membership or otherwise discriminate against any individual on the basis of race, color, religion, national origin, ~~sex~~gender, sexual orientation, age, marital status, or disability;
 - b. Limit, segregate, or classify membership or applicants for membership, or to classify or to fail or refuse to refer an individual for employment in a way which would deprive or tend to deprive, limit, or adversely affect an individual's employment opportunities on the basis of race, color, religion, national origin, ~~sex~~gender, sexual orientation, age, marital status, or disability; or
 - c. Cause, assist, or attempt to cause or assist an employer to violate this division.
- (4) *Training programs.* It is an unlawful practice for an employer, labor organization, or training committee to discriminate against an individual on the basis of race, color, religion, national origin, ~~sex~~gender, sexual orientation, marital status, or disability in a training program providing apprenticeship or other training.
- (5) *Advertising.* It is a discriminatory practice for an employer, labor organization, or employment agency to publish an advertisement relating to employment, indicating a preference, limitation, specification, or discrimination based on race, color, religion, national origin, ~~sex~~gender, sexual orientation, marital status, or disability.
- (6) *Discriminatory information gathering.* Except as permitted and required by regulations of the commission, or by applicable federal or state law, it is a discriminatory practice for an employer or employment agency to elicit information about an employee's race, color, religion, ~~sex~~gender, sexual orientation, national origin, age, marital status, or disability, or to keep or disclose a record of such information for the purposes of effecting discrimination.

Section 4.

Section 70-101 of the Pinellas County Code is hereby amended to read as follows:

“Sec. 70-101. Definitions.

Gender includes but is not limited to sex, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, gender-related self-identity, self-image, appearance, expression or behavior, whether or not such gender-related characteristics differ from those associated with the individual's assigned sex or physiology at birth, which gender-related identity can be shown by evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of the person's core identity, or not being asserted for an improper purpose.

Section 5.

Section 70-103 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-103. Purposes and intent.

- (a) (2) Secure for all individuals within the county the freedom from discrimination because of race, color, religion, national origin, ~~sex~~gender, sexual orientation, familial status, or handicap in connection with housing and public accommodations, and thereby to promote the interests, rights and privileges of individuals within the county.

Section 6.

Section 70-107 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-107. Appraisals.

This division does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, ~~sex~~gender, sexual orientation, handicap, familial status, or national origin.

Section 7.

Section 70-176 of the Pinellas County code is hereby amended to read as follows:

Sec. 70-176. Sale or rental.

- (a) A person may not refuse to sell or to rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, handicap, religion, ~~sex~~gender, sexual orientation, familial status, or national origin.
- (b) A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in providing services or facilities in connection with such sale or rental, because of race, color, handicap, religion, ~~sex~~gender, sexual orientation, familial status, or national origin.

- (c) This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

Section 8.

Section 70-177 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-177. Publication.

A person may not 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 a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, ~~sex~~gender, sexual orientation, handicap, familial status, or national origin, or an intention to make such a preference, limitation, or discrimination.

Section 9.

Section 70-178 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-178. Falsely representing availability.

A person may not represent to any person because of race, color, religion, ~~sex~~gender, sexual orientation, handicap, familial status, or national origin that a dwelling is not available for inspection, sale or rental when the dwelling is available for inspection, sale or rental.

Section 10.

Section 70-179 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-179. Entry into neighborhood.

A person may not, for profit, induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, ~~sex~~gender, sexual orientation, handicap, familial status, or national origin.

Section 11.

Section 70-181 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-181. Residential real estate related transactions.

- (a) A person or entity whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate

related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, sexgender, sexual orientation, handicap, familial status, or national origin.

(b) As used in this section, "residential real estate related transaction" means:

(1) Making or purchasing loans or providing other financial assistance:

- a. To purchase, construct, improve, repair, or maintain a dwelling; or
- b. Secured by residential real estate; or

(2) Selling, brokering, or appraising residential real property.

Section 12.

Section 70-182 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-182. Brokerage services.

A person may not deny any person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in the terms or conditions of access, membership, or participation therein, on the basis of race, color, religion, national origin, sexgender, sexual orientation, familial status, or handicap.

Section 13.

Section 70-211 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-211. Definitions.

Gender includes but is not limited to sex, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, gender-related self-identity, self-image, appearance, expression or behavior, whether or not such gender-related characteristics differ from those associated with the individual's assigned sex or physiology at birth, which gender-related identity can be shown by evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of the person's core identity, or not being asserted for an improper purpose.

Section 14.

Section 70-212 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-212. Purpose and intent.

- (a) It is the purpose and intent of the board of county commissioners through the passage of this subdivision to assure to the citizens of the county the equal enjoyment of the facilities and services of any public place of accommodation, regardless of their race, color, religion, national origin, ~~sex~~gender, sexual orientation, or disability.
- (b) To the extent that the provisions of this subdivision overlap or conflict with other provisions of this article, such other provisions shall take precedence.
- (c) The enforcement of this subdivision may be delegated by interlocal agreement to other units of local government or to nonprofit corporations.

Section 15.

Section 70-213 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-213. Exemptions from subdivision.

- (a) The provisions of this subdivision shall not prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society from giving preference to the members of the same religion in the enjoyment of its facilities and services, unless membership in such religion is restricted on account of race, color, ~~gender~~, sexual orientation, or national origin.
- (b) The provisions of this subdivision relating to public accommodations do not prohibit discrimination on the basis of ~~sex~~gender in rest rooms, shower rooms, bathhouses, and similar facilities which are by their nature simply private, or dormitory lodging facilities.
- (c) The provisions of this subdivision shall not apply to any private club or other establishment which is not, in fact, open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the establishment are made available to the customers or patrons of another establishment which is a place of public accommodation. However, any institution, club, or place of accommodation which has more than 400 members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages, directly or indirectly, from or on behalf of nonmembers for the furtherance of the trade or business, shall not receive an exemption as a private club under this subdivision.
- (d) The provisions of this subdivision shall not be construed as prohibiting the giving of special discounts on goods and services by a place of public accommodation,

provided such goods or services are not denied to individuals on the basis of race, color, religion, national origin, ~~sex~~gender, sexual orientation, or disability.

Section 16.

Section 70-214 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-214. Discrimination prohibited.

- (a) It is a violation of this subdivision for an operator of a place of public accommodation, whether personally or through the actions of an employee or independent contractor, to deny or refuse to another person the full and equal enjoyment of the facilities and services of any place of public accommodation on the basis of that person's race, color, religion, national origin, ~~sex~~gender, sexual orientation, or disability. For the purposes of this subdivision, the failure by an owner of a public building, or a private building which has restrooms open to the public, to comply with the provisions of F.S. § ~~553.141~~553.86, relating to the provision of public restrooms, shall be considered a denial of full and equal enjoyment of the facilities of a place of public accommodation to women on the basis of their ~~sex~~gender.
- (b) It is a violation of this subdivision for an owner or operator of a place of public accommodation, either personally or through the actions of an employee or independent contractor, to display or publish any written communication which is to the effect that any of the facilities and/or services of a place of public accommodation will be denied to any person or that any such person is unwelcome, objectionable or unacceptable because of that person's race, color, religion, national origin, ~~sex~~gender, sexual orientation, or disability.

Section 17. Inclusion in the Code.

The provisions of the ordinance shall be included and incorporated in the Pinellas County Code, as an amendment and an addition thereto, and shall be appropriately renumbered, if necessary, to conform to the uniform numbering system of the Pinellas County Code.

Section 18. Severability.

If any section, subsection, sentence, clause, phrase or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining portions of this ordinance invalid or unconstitutional.

Section 19. Amendment of Proposed Ordinance at Public Hearing.

Any section, subsection, sentence, clause, phrase, or provision of this Ordinance as proposed be amended, added, or deleted by majority vote of the Board of County Commissioners

as a result of matters raised at the public hearing or in consultation with responsible authorities, and in such event, the amendments, additions or deletions shall be validly adopted without additional advertisement or hearing.

Section 20. Areas Embraced.

This Ordinance shall be effective in the incorporated and unincorporated areas of the County.

Exhibit B

“Clean” version of Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY CODE BE REVISED BY AMENDING SECTIONS 70-51, 70-52, 70-53, 70-101, 70-103, 70-107, 70-176, 70-177, 70-178, 70-179, 70-181, 70-182, 70-211, 70-212, 70-213, 70-214, OF SAID CODE; AMENDING DIVISION II, EMPLOYMENT, DEFINITIONS, TO INCLUDE A DEFINITION OF GENDER; AMENDING DIVISION II, EMPLOYMENT, PURPOSES AND INTENT, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION II, EMPLOYMENT, UNLAWFUL PRACTICES, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, DEFINITIONS, TO INCLUDE A DEFINITION OF GENDER; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, PURPOSES AND INTENT, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, APPRAISALS, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, SALE OR RENTAL DISCRIMINATION, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, PROHIBITED PUBLICATION, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, FALSELY REPRESENTING AVAILABILITY, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, ENTRY INTO NEIGHBORHOOD, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, RESIDENTIAL REAL ESTATE RELATED TRANSACTIONS, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, BROKERAGE SERVICES, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, PROHIBITED DISCRIMINATION IN PUBLIC ACCOMMODATIONS, DEFINITIONS, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, PROHIBITED DISCRIMINATION IN PUBLIC ACCOMMODATIONS, PURPOSES AND INTENT, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, PROHIBITED DISCRIMINATION IN PUBLIC ACCOMMODATIONS, EXCEPTIONS FROM SUBDIVISION, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; AMENDING DIVISION III, HOUSING AND PUBLIC ACCOMMODATIONS, PROHIBITED DISCRIMINATION IN PUBLIC ACCOMMODATIONS, DISCRIMINATION PROHIBITED, BY SUBSTITUTING THE WORD GENDER FOR THE WORD SEX; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AMENDMENT OF PROPOSED ORDINANCE AT PUBLIC HEARING; PROVIDING FOR AREAS EMBRACED.

WHEREAS, the Home Rule Charter of Pinellas County, Florida, Article III, Section 2.02(e) directs the Board of County Commissioners of Pinellas County, Florida, to establish provisions for the protection of human rights from discrimination; and

WHEREAS, the County has enacted Ordinance 92-14, as amended, which is codified at Chapter 70 of the Pinellas County Code, which establishes the means for providing and ensuring the equal rights and opportunities for all people of the County in the areas of employment, housing, and public accommodations; and

WHEREAS, the Board of County Commissioners desires to amend the provisions of Ordinance 92-14, as amended,- by substituting the word “gender,” which is defined as including but not limited to sex, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, gender-related self-identity, self-image, appearance, expression or behavior, whether or not such gender-related characteristics differ from those associated with the individual’s assigned sex at birth, for the word “sex”.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Pinellas County, Florida:

Section 1.

Section 70-51 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-51. Definitions.

Gender includes but is not limited to sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, gender-related self-identity, self-image, appearance, expression or behavior, whether or not such gender-related characteristics differ from those associated with the individual’s assigned sex or physiology at birth, which gender-related identity can be shown by evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person’s core identity, or not being asserted for an improper purpose.

Section 2.

Section 70-52 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-52. Purposes and intent.

- (a) (2) Secure for all individuals within the county the freedom from discrimination because of race, color, religion, national origin, gender, sexual orientation, age, marital status, or disability in connection with employment, and thereby to promote the interests, rights and privileges of individuals within the county.

Section 3.

Section 70-53 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-53. Unlawful practices.

- (a) *Unlawful discrimination in employment practices.*
 - (1) *Employers.* It is a discriminatory practice for an employer to:
 - a. Fail or refuse to hire, discharge, or otherwise discriminate against an individual with respect to compensation or the terms, conditions, or privileges of employment because of race, color, religion, national origin, gender, sexual orientation, age, marital status, or disability; or
 - b. Limit, segregate, or classify an employee in a way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee because of race, color, religion, national origin, -gender, sexual orientation, age, marital status, or disability.
 - c. The above described prohibited discrimination on the basis of gender includes sexual harassment, including same-gender sexual harassment, and pregnancy discrimination.
 - (2) *Employment agencies.* It is a discriminatory practice for an employment agency on the basis of race, color, religion, national origin, gender, sexual orientation, age, marital status, or disability to:
 - a. Fail or refuse to refer for employment or otherwise discriminate against an individual; or

- b. Classify or refer for employment an individual on such a discriminatory basis.
- (3) *Labor organizations.* It is a discriminatory practice for a labor organization to:
 - a. Exclude or to expel from membership or otherwise discriminate against any individual on the basis of race, color, religion, national origin, gender, sexual orientation, age, marital status, or disability;
 - b. Limit, segregate, or classify membership or applicants for membership, or to classify or to fail or refuse to refer an individual for employment in a way which would deprive or tend to deprive, limit, or adversely affect an individual's employment opportunities on the basis of race, color, religion, national origin, gender, sexual orientation, age, marital status, or disability; or
 - c. Cause, assist, or attempt to cause or assist an employer to violate this division.
- (4) *Training programs.* It is an unlawful practice for an employer, labor organization, or training committee to discriminate against an individual on the basis of race, color, religion, national origin, gender, sexual orientation, marital status, or disability in a training program providing apprenticeship or other training.
- (5) *Advertising.* It is a discriminatory practice for an employer, labor organization, or employment agency to publish an advertisement relating to employment, indicating a preference, limitation, specification, or discrimination based on race, color, religion, national origin, gender, sexual orientation, marital status, or disability.
- (6) *Discriminatory information gathering.* Except as permitted and required by regulations of the commission, or by applicable federal or state law, it is a discriminatory practice for an employer or employment agency to elicit information about an employee's race, color, religion, gender, sexual orientation, national origin, age, marital status, or disability, or to keep or disclose a record of such information for the purposes of effecting discrimination.

Section 4.

Section 70-101 of the Pinellas County Code is hereby amended to read as follows:

“Sec. 70-101. Definitions.

Gender includes but is not limited to sex, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, gender-related self-identity, self-image, appearance, expression or behavior, whether or not such gender-related characteristics differ from those associated with the individual's assigned sex or physiology at birth, which gender-related identity can be shown by evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of the person's core identity, or not being asserted for an improper purpose.

Section 5.

Section 70-103 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-103. Purposes and intent.

- (a) (2) Secure for all individuals within the county the freedom from discrimination because of race, color, religion, national origin, gender, sexual orientation, familial status, or handicap in connection with housing and public accommodations, and thereby to promote the interests, rights and privileges of individuals within the county.

Section 6.

Section 70-107 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-107. Appraisals.

This division does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, gender, sexual orientation, handicap, familial status, or national origin.

Section 7.

Section 70-176 of the Pinellas County code is hereby amended to read as follows:

Sec. 70-176. Sale or rental.

- (a) A person may not refuse to sell or to rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, handicap, religion, gender, sexual orientation, familial status, or national origin.
- (b) A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in providing services or facilities in connection with such sale or rental, because of race, color, handicap, religion, gender, sexual orientation, familial status, or national origin.

- (c) This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

Section 8.

Section 70-177 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-177. Publication.

A person may not 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 a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, gender, sexual orientation, handicap, familial status, or national origin, or an intention to make such a preference, limitation, or discrimination.

Section 9.

Section 70-178 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-178. Falsely representing availability.

A person may not represent to any person because of race, color, religion, gender, sexual orientation, handicap, familial status, or national origin that a dwelling is not available for inspection, sale or rental when the dwelling is available for inspection, sale or rental.

Section 10.

Section 70-179 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-179. Entry into neighborhood.

A person may not, for profit, induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, gender, sexual orientation, handicap, familial status, or national origin.

Section 11.

Section 70-181 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-181. Residential real estate related transactions.

- (a) A person or entity whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate

related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, gender, sexual orientation, handicap, familial status, or national origin.

- (b) As used in this section, "residential real estate related transaction" means:
 - (1) Making or purchasing loans or providing other financial assistance:
 - a. To purchase, construct, improve, repair, or maintain a dwelling; or
 - b. Secured by residential real estate; or
 - (2) Selling, brokering, or appraising residential real property.

Section 12.

Section 70-182 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-182. Brokerage services.

A person may not deny any person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in the terms or conditions of access, membership, or participation therein, on the basis of race, color, religion, national origin, gender, sexual orientation, familial status, or handicap.

Section 13.

Section 70-211 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-211. Definitions.

Gender includes but is not limited to sex, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, gender-related self-identity, self-image, appearance, expression or behavior, whether or not such gender-related characteristics differ from those associated with the individual's assigned sex or physiology at birth, which gender-related identity can be shown by evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of the person's core identity, or not being asserted for an improper purpose.

Section 14.

Section 70-212 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-212. Purpose and intent.

- (a) It is the purpose and intent of the board of county commissioners through the passage of this subdivision to assure to the citizens of the county the equal enjoyment of the facilities and services of any public place of accommodation, regardless of their race, color, religion, national origin, gender, sexual orientation, or disability.
- (b) To the extent that the provisions of this subdivision overlap or conflict with other provisions of this article, such other provisions shall take precedence.
- (c) The enforcement of this subdivision may be delegated by interlocal agreement to other units of local government or to nonprofit corporations.

Section 15.

Section 70-213 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-213. Exemptions from subdivision.

- (a) The provisions of this subdivision shall not prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society from giving preference to the members of the same religion in the enjoyment of its facilities and services, unless membership in such religion is restricted on account of race, color, gender, sexual orientation, or national origin.
- (b) The provisions of this subdivision relating to public accommodations do not prohibit discrimination on the basis of gender in rest rooms, shower rooms, bathhouses, and similar facilities which are by their nature simply private, or dormitory lodging facilities.
- (c) The provisions of this subdivision shall not apply to any private club or other establishment which is not, in fact, open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the establishment are made available to the customers or patrons of another establishment which is a place of public accommodation. However, any institution, club, or place of accommodation which has more than 400 members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages, directly or indirectly, from or on behalf of nonmembers for the furtherance of the trade or business, shall not receive an exemption as a private club under this subdivision.
- (d) The provisions of this subdivision shall not be construed as prohibiting the giving of special discounts on goods and services by a place of public accommodation,

provided such goods or services are not denied to individuals on the basis of race, color, religion, national origin, gender, sexual orientation, or disability.

Section 16.

Section 70-214 of the Pinellas County Code is hereby amended to read as follows:

Sec. 70-214. Discrimination prohibited.

- (a) It is a violation of this subdivision for an operator of a place of public accommodation, whether personally or through the actions of an employee or independent contractor, to deny or refuse to another person the full and equal enjoyment of the facilities and services of any place of public accommodation on the basis of that person's race, color, religion, national origin, gender, sexual orientation, or disability. For the purposes of this subdivision, the failure by an owner of a public building, or a private building which has restrooms open to the public, to comply with the provisions of F.S. § 553.86, relating to the provision of public restrooms, shall be considered a denial of full and equal enjoyment of the facilities of a place of public accommodation to women on the basis of their gender.
- (b) It is a violation of this subdivision for an owner or operator of a place of public accommodation, either personally or through the actions of an employee or independent contractor, to display or publish any written communication which is to the effect that any of the facilities and/or services of a place of public accommodation will be denied to any person or that any such person is unwelcome, objectionable or unacceptable because of that person's race, color, religion, national origin, gender, sexual orientation, or disability.

Section 17. Inclusion in the Code.

The provisions of the ordinance shall be included and incorporated in the Pinellas County Code, as an amendment and an addition thereto, and shall be appropriately renumbered, if necessary, to conform to the uniform numbering system of the Pinellas County Code.

Section 18. Severability.

If any section, subsection, sentence, clause, phrase or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining portions of this ordinance invalid or unconstitutional.

Section 19. Amendment of Proposed Ordinance at Public Hearing.

Any section, subsection, sentence, clause, phrase, or provision of this Ordinance as proposed be amended, added, or deleted by majority vote of the Board of County Commissioners

as a result of matters raised at the public hearing or in consultation with responsible authorities, and in such event, the amendments, additions or deletions shall be validly adopted without additional advertisement or hearing.

Section 20. Areas Embraced.

This Ordinance shall be effective in the incorporated and unincorporated areas of the County.

APPROVED AS TO FORM
OF SIGNATURE BY CLERK

Michelle Wallace
Attorney