



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 7/16/2019

DEPARTMENT: Legal

STAFF CONTACT: Ron Shaver; Daniel Yoza

SUBJECT: Report regarding an ordinance adding Chapter 2.43 to the Olathe Municipal Code pertaining to Unlawful Discrimination.

On March 5, 2019, the City Council adopted Resolution No. 19-1024 declaring it to be the policy of the City of Olathe to reject discrimination of any kind and to respect the inherent worth of every person, without regard to age, race, religion, color, sex, disability, national origin, ancestry, marital status, familial status, military status, sexual orientation, and gender identity.

The City Manager has directed the City Attorney's Office to provide a draft non-discrimination ordinance (NDO) as a report item on tonight's agenda for review by the City Council and members of the public. The NDO is included as Attachment A.

The NDO would add a new Chapter 2.43 to the Olathe Municipal Code. The NDO prohibits discrimination in the City of Olathe on the basis of a person's sexual orientation or gender identity in the areas of employment, housing, and public accommodations. Current state and federal laws protect people in Olathe against discrimination on the basis of age, race, religion, color, sex, disability, national origin, ancestry, marital status, familial status, and military status. However, based on current applicable law and the current interpretation of Kansas courts and federal courts with jurisdiction over Kansas, no such protection currently exists in Olathe for people discriminated against on the basis of sexual orientation and gender identity. This NDO is similar to other non-discrimination ordinances that have been adopted in other Kansas cities, including Kansas City, Lawrence, Manhattan, Merriam, Mission, Mission Hills, Prairie Village, Roeland Park, and Westwood Hills. The NDO describes certain defenses to any allegation of an unlawful discriminatory practice and provides interpretations on otherwise lawful conduct in the context of employment, housing, and public accommodations. The NDO includes the City's enforcement procedures. The City would initiate investigations, conduct hearings, and make findings. The maximum punishment for violating this ordinance is a \$500 civil penalty. The City's finding could be appealed to Johnson County District Court. The NDO includes exemptions for religious organizations and certain other private organizations.

The purpose of this item is to get the draft NDO into the public purview and allow for content specific feedback prior to possible future consideration by the City Council.

While an extensive volume of written and oral testimony pertaining to an NDO has been provided to the City Council through correspondence and during the General Issues and Concerns of Citizens portion of each City Council Meeting thus far in 2019, an additional opportunity will be provided for Olathe residents and businesses to submit written testimony regarding the draft NDO for the public record. This would be done through a link on the City Council page of the City website or by submitting it directly to the City Manager's office. All written testimony submitted by Olathe residents and businesses must be submitted by July 30, 2019 and will be included in the public record if the item is considered at a future City Council meeting. No additional oral testimony pertaining to the NDO will be received by the City Council at such future meeting.

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SUMMARY:

The NDO prohibits discrimination on the basis of a person's sexual orientation and gender identity in the areas of employment, housing, and public accommodations.

FINANCIAL IMPACT:

Unknown; costs to enforce the ordinance will depend upon the number of complaints filed, the extent of the investigations thereafter, and whether findings are appealed.

ACTION NEEDED:

Accept report.

ATTACHMENT(S):

Attachment A: Ordinance - Olathe Municipal Code Chapter 2.43 - Unlawful Discrimination