

City of Houston
Equal Rights Ordinance
Ordinance Number 2014-530
Section-by-Section Summary

The Houston Equal Rights Ordinance (“HERO”) provides protection from intentional discrimination, based on sex, race, color, ethnicity, national origin, age, familial status, marital status, military status, religion, disability, sexual orientation, genetic information, gender identity and pregnancy. The protections apply to city employment & city services, and city contracting, as well as public accommodations, private sector employment, and housing within the city limits of Houston.

Investigation and prosecution procedures are similar across all sections of the ordinance. The City’s Office of Inspector General (or a Fair Housing Administrator for housing complaints) is charged with investigating possible violations of HERO, with a mandate to conciliate the complaint. If attempts at conciliation of public accommodation, private employment, or fair housing complaints fail, the City Attorney’s office can file a Class C misdemeanor charge with a penalty of a \$250 - \$500 fine assessed for a conviction for each offense, with a \$5,000 maximum for the same complaint. The charge is heard in municipal court with the right to a jury trial. There is no right to a private cause of action.

ARTICLE I

Article I declares the policy of the city that city residents and all persons subject to its jurisdiction shall not be subject to discrimination based upon the protected characteristics of sex, race, color, ethnicity, national origin, age, familial status, marital status, military status, religion, disability, sexual orientation, genetic information, gender identity and pregnancy (collectively, “protected characteristics”). The protected characteristics and other operative words of the ordinance are defined in Article I, Section 17-2.

ARTICLE II

Article II applies the protections against discrimination to city employment and city services. The employment nondiscrimination protections (section 17-31) apply to all city officials and employees regardless of civil service status, classification, pay grade, length of employment, or full-time or part-time status. These protections apply to an employee's pay, status, position, or assignment, including opportunities for overtime pay and advancement, and includes decisions regarding recruitment, job application procedures, referrals for employment, selection and hiring, appointment, compensation, promotions, demotions, transfer, retention, layoffs, recalls, training, educational opportunities, and all forms of discipline.

Article II, Section 17-32 states the City will not discriminate on the basis of any protected characteristic in the use of city facilities or in the provision of city programs, services or activities.

ARTICLE III

Article III, Section 17-42 applies to the awarding of city contracts. It states that it is unlawful for any city contractor or vendor to discriminate on the basis of a protected characteristic. It requires all city contracts to contain an Equal Employment Opportunity Clause that states that a contractor, subcontractor, supplier, vender, lessee will not discriminate on the basis of a protected characteristic.

Article III, Section 17-41 contains language that states that HERO's nondiscrimination provisions are not in conflict with the city's minority and women business enterprise and persons with disabilities business enterprise programs which encourage the city to contract with historically underutilized businesses.

Article IV

Article IV applies to public accommodations, which includes as "every business with a physical location in the city, whether wholesale or retail, which is open to the general public and offers for compensation any product, service, or facility." Examples include, but are not limited to, "hotels, motels, restaurants, bars, lounges, nightclubs or cabarets where food or beverages are sold or offered for sale, theaters, washaterias, bowling alleys, skating rinks, golf courses, and other places of public amusement, and all public conveyances, as well as the stations or terminals thereof." Excluded from the definition is "the leasing office, visitor parking area and model units of a multi-family housing facility" (Section 17-2).

Compliance with federal or state laws related to accessibility is a defense to claims of disability discrimination based on accessibility (Section 17-51(b)).

A finding, conciliation, or adjudication of a public accommodation is not admissible against a business for the purposes of the city's licensing, permitting, or other regulatory matters (Section 17-52 (e)).

Private membership clubs, bona fide social, fraternal, education or civic organizations, and religious organizations are exempt from the public accommodation provisions. (Section 17-54 (2)).

Facilities owned by the federal, state, county, or other local government entity are exempt from coverage. (Section 17-54 (3)).

Senior citizen and veterans discounts are also exempt and permitted under the ordinance. (Section 17-54 (4)).

Article V

Article V applies to private employers. A private employer cannot discriminate in employment considerations based upon a protected characteristic (Section 17-61). In the first year, the ordinance applies to employers with more than 50 employees. In the second year, the ordinance applies to employers with more than 25 employees. In the third year, the ordinance applies to employers with more than 15 employees. Employers with less than 15 employees are not affected by the employment portion of the ordinance. (City of Houston Ordinance 2014-530, Section 2A).

Filing a complaint in bad faith is prohibited (Section 17-61 (d)).

Where a federal or state agency has concurrent jurisdiction over an employment claim, the City's Inspector General shall refer the matter to that agency (Section 17-62).

HERO does not add to or detract from any civil remedies already available to persons complaining of discrimination (Section 17-63).

A finding, conciliation, or adjudication of private employment discrimination is not admissible against the employer for the purposes of city licensing, permitting, or other regulatory matters (Section 17-62(e)).

Article VI

Article VI applies the nondiscrimination protections to housing matters and in large part tracks federal law and existing city ordinances. The protections apply to the sale or rental of housing, the terms, conditions, or privileges of, or in providing a service or facility in connection with, the sale or rental of housing, including financing (Section 17-112).

Age is not a protected characteristic for the housing provisions thus allowing retirement homes to restrict occupancy to older individuals (Section (17-112(i))).

Private membership clubs and religious organizations are exempt from the housing provisions (Section 17-122). Religious organizations and private clubs are specifically permitted to give preference for housing purposes to persons of the same religion or to members of the private club (Section 17-122(a), (b)).

HERO does not interfere with the enforcement of lawful deed restrictions or a lawful limitation on the number of persons who may occupy a dwelling (Section 17-126).