



Legislation Text

File #: 18-175, Version: 2

TO: Mayor and Members of City Council

THRU: Jay Reinstein, Assistant City Manager

FROM: Dr. Anthony Wade, Human Relations Director
Yamile Nazar, Human Relations Manager

DATE: May 7, 2018

RE:
Modification to City of Fayetteville's Fair Housing Ordinance

COUNCIL DISTRICT(S):
All

Relationship To Strategic Plan:

Goal 4: Desirable Place to Live, Work and Recreate

Executive Summary:

Council is asked to adopt the proposed modification to the City's Fair Housing Ordinance presently enforced by its Human Relations Department. The outcomes of these modifications would result in making our ordinance equal to several similarly situated local governments in North Carolina. It would also facilitate greater operational expediency and allow the City to apply for the same level of federal grants as those city and county governments in support of the City's Ordinance.

Background:

A review of the City's Fair Housing Ordinance has been ongoing since 2017 with assistance from the City Attorney's Office and the National Community Reinvestment Coalition (NCRC). The findings from that review show that presently the City of Fayetteville's Fair Housing Ordinance is not substantially equivalent to several similarly situated local governments in North Carolina. As such, this ordinance does not allow the Department to execute its operations with the same level of expediency as those cities, while simultaneously preventing the City from applying for the same level of federal grants as those city and county governments.

- Presently the City of Fayetteville's Fair Housing Ordinance is not substantially equivalent to the Federal Fair Housing Act
- Within North Carolina the following are substantially equivalent to federal law:
 - the N.C. Fair Housing Act under the Civil Rights Division of the N.C. Department of

Administrative Hearings

- the local government fair housing ordinances in:
 - Durham
 - Orange County
 - Greensboro
 - Winston-Salem
 - Charlotte
- As such, the City cannot apply for the federal fair housing assistance program (FHAP) funds that the above stated municipalities receive for the same work the City presently performs under its current ordinance.
- The FHAP funds can be as much as \$100,000+ per year for a minimum of three years to be spent for enforcement, capacity building, outreach, education and training, staff professional development and additional personnel.
- After the three year period, additional funding can be received that can still reach or exceed \$100,000 annually including payment for individually processed cases ranging between \$2,600 and \$3,000 per case.

Issues/Analysis:

In consultation with the City Attorney's Office and NCRC, a draft proposed ordinance believed to be substantially equivalent has been developed that retains the majority of the original ordinance with additional information that strengthens the City's position to be substantially equivalent with HUD and the state and local governments referenced above.

- The amended ordinance includes the following modifications:
 - The department is tasked with the investigative process;
 - The director may initiate a complaint;
 - The determination is reached by the director of the Human Relations Department based on the final investigative report;
 - A reasonable cause determination will no longer have to be debated and voted on by council in order to hold a hearing;
 - There is an election opportunity to either party to have a hearing in superior court. Otherwise the hearing will be held by the fair housing board;
 - FHB decisions may be appealed to the City Manager or his/her designee.

The request for Ordinance modification allows the City to provide services presently being provided under its existing Ordinance, but not allows for the opportunity to receive federal funding designated for this exact purpose.

On April 27, 2018 the City's Fair Housing Board unanimously confirmed that it supports the recommended revisions to the current ordinance.

The Fair Housing Board and City staff recommend APPROVAL of the recommended modifications to the Fair Housing Ordinance

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- The director may initiate a complaint;
- The determination is reached by the director of the Human Relations Department based on the final investigative report;
 - A reasonable cause determination will no longer have to be debated and voted on by council in order to hold a hearing;
- There is an election opportunity to either party to have a hearing in superior court. Otherwise the hearing will be held by the fair housing board;
- FHB decisions may be appealed to the City Manager or his/her designee

As stated earlier, the request for Ordinance modification supports parity between Fayetteville and other local governments and facilitates the City's ability to request federal funding for services presently being provided under its existing Ordinance. Additionally, modification of the Ordinance will expedite the fair housing investigatory process for both complainants and respondents. On April 27 the City's Fair Housing Board unanimously confirmed its support for the proposed modifications to the ordinance.

Budget Impact:

This individual action to modify the Ordinance will not increase contributions from the General Fund. It is expected that, upon approval of the request to HUD for federal funding for an ordinance that is equivalent to federal law, Fayetteville would receive hundreds of thousands of dollars over the first three years of a contractual work-sharing agreement with HUD for enforcement responsibilities that it is already performing under the City's existing Ordinance. Additionally, it would allow the City to have the same levels of protection from discrimination in housing presently being provided by local fair housing ordinances in Durham, Greensboro, Winston-Salem, Charlotte, and Orange County.

Options:

- 1) Approve the proposed modifications to the City's Fair Housing Ordinance as listed above (recommended).
- 2) Do not approve the proposed modifications to the City's Fair Housing Ordinance as listed above and provide direction to the City Manager.

Recommended Action:

The Fair Housing Board and City Staff recommend that the City Council move to approve the proposed modifications to the City's Fair Housing Ordinance as listed above, as presented by the staff, with the conditions listed above. The Modification is consistent with the intent and spirit of the current ordinance in which works to ensure that Fayetteville residents are free from discrimination in housing while allowing staff greater operational expediency in the performance of those duties.

Attachments:

Fair Housing pwpt