THE CITY OF ASHEVILLE

# Staff Report

**Asheville City Council:** October 10, 2022

**Subject:** Amendment to City's Human Relations Commission of Asheville Ordinance

**Staff Resources**: Alayna Schmidt, Research and Data Analyst, Office of Equity and Inclusion
Brenda Mills, Director of the Office of Equity and Inclusion
Brad Branham, City Attorney

**Action Requested:** Adoption of an amendment to Section 2-185.25 of the Code of Ordinances regarding Membership of the Human Relations Commision of Asheville (HRCA).

**Background**:

- The HRCA was established by Ordinance No. 4663 in July of 2018.
- At the January 10, 2023 City Council meeting, Council voted unanimously to reduce the total membership of the HRCA from 15 to 9 members, including allowing up to 3 members who reside in Buncombe County outside of the City.
- These proposed amendments reflect needed updates to the City's current local ordinance which establishes the HRCA in order to come into compliance with recent Federal Court decisions.
- Following recent Supreme Court cases involving the admissions practices at the University of Harvard and the University of North Carolina, public institutions must examine the language involving any racial preferences.
- In order to remain compliant with existing Federal law, an amendment to the City's existing HRCA ordinance is necessary.
- The proposed amendment only alters one portion of the existing ordinance pertaining to membership characteristics.
- The recommended changes represent technical changes to the commission membership makeup by clarifying that equal opportunity to serve shall be given to individuals or classes which have been historically disadvantaged, however no racial characteristics will be a requirement of membership.
- The amendment will also clarify that membership decisions do not violate constitutional protections.

**Vendor Outreach Efforts:**
- Not Applicable

**Council Goal(s):**
- A Well Planned and Livable Community

**Committee(s)**:
- Human Relations Commission of Asheville - Sept. 21, 2023 - Voted 5-0 to recommend amendment
- City Council Boards and Commissions Committee - Oct. 10, 2023

**Pro(s):**
- Brings existing City ordinances into compliance with recent U.S. Supreme Court decisions and guarantees equal access and membership opportunities for historically disadvantaged groups.

**Con(s):**
- None

**Fiscal Impact**:
- This action requires no City resources and has no fiscal impact.

**Suggested Motion:**

- Move to approve the amendment to Section 2-185.25 of the Asheville City Code regarding membership and appointments to the Human Relations Commission of Asheville.

**Attachment(s)**:

- Proposed Ordinance

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 2-185.25 OF ARTICLE 3, CHAPTER 2 OF THE CITY'S CHARTER, ESTABLISHING THE HUMAN RELATIONS COMMISSION OF ASHEVILLE.

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WHEREAS, the City has the authority, pursuant to Section 160A-92 of the North Carolina General Statutes to appoint such human relations committees as it may deem necessary; and

WHEREAS, the City adopted sec. 2-185.25 of Article 3, Chapter 2 of the City's Charter establishing the Human Relations Commission of Asheville on April 10, 2018 to promote and improve human relations and achieve equity among all citizens in the City by carrying out the City's human relations program; and

WHEREAS, the amendments to sec. 2-185.25 have been recommended by the Human Relations Commission of Asheville and are consistent with City Council's goals and the nature of the original establishment of the Human Relations Commission of Asheville;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

1. Sec. 2-185.25 of Article 3, Chapter 2 of the City's Charter is repealed in its entirety, and replaced with the following:

**Sec. 2-185.25. Duties, membership, and rules of procedure.**

(a) *Duties.* The HRCA is charged with carrying out the human relations program in accordance with the authority set forth in the North Carolina General Statutes, and in doing so its duties will include, but will not be limited to, the following:

(1) Make policy recommendations to the Asheville City Council which promote and improve human relations and advance equity in the city;

(2) Support the city's office of equity and inclusion in its duties and responsibilities;

(3) Provide a forum where residents can raise, and bring to the HRCA's attention, issues and complaints relating to human relations issues in the city;

(4) Engage the community and gather community input regarding the utilization of city-funded programs and policies for the promotion of human relations;

(5) Promote and improve human relations and advance equity in public safety;

(6) Promote and improve human relations and advance equity in educational, art and cultural opportunities;

(7) Promote and improve human relations and advance equity in economic development in the city, including but not limited to city-funded economic development programs and opportunities;

(8) Promote and improve human relations and advance equity in health and human services in the city, including but not limited to city-funded health and human services programs; and

(9) Promote and improve human relations and advance equity in housing in the city, including but not limited to working with the city and other agencies to enhance opportunities and programs related to affordable housing and to address issues related to gentrification.

(b) *Membership and appointment.*

(1) The HRCA shall be comprised of nine members appointed by the Asheville City Council, for staggered two-year terms. Priority will be given to appointing members who are residents of the city, with an allowance for up to three members to be non-city residents who currently reside within Buncombe County. Members can be removed at the discretion of the city council for good cause.

(2) In appointing members to the HRCA, the council should endeavor to use the following criteria:

a. Members should have demonstrated an interest and experience in human relations;

b. Membership should reflect the groups of individuals that the human relations program is intended to assist and protect, including but not limited to individuals from different races, ethnicities, sexual orientation and socioeconomic backgrounds. Commission representation shall take into consideration the diverse nature of the Asheville community. The Consideration of appointment of members shall provide equal access and opportunity to serve upon the Commission to all historically disadvantaged groups, including but not limited to the following:

- Black or African Americans;
- Latino/a or Hispanic individuals;
- Native Americans and Indigenous People;
- Asian Americans;
- members of the LGBTQ+ community;
- Youth members between the ages of 18 and 25;
- Individuals who live in public housing;
- Individuals with a disability or disabled individuals;
- Individuals who are recognized as community leaders.

c. Council shall appoint members who reside in the various geographical areas of the city to include: north Asheville, south Asheville, west Asheville, east Asheville and the downtown area.

(c) *Rules of procedure.* The HRCA shall adopt rules of procedure necessary for the proper discharge of its duties, which govern, among other things, the election of a chair, and the conduct and time of its meetings.

2. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, duty in conflict with any existing federal or state law.

3. Should any provision of this Ordinance be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Ordinance, and such action shall not affect the enforceability of the remaining provisions of the Ordinance.

4. The provisions of this Ordinance shall go into effect on the 10th day of October, 2023.

Read, approved, and adopted this 10th day of October, 2023.

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City Clerk Mayor

Approved as to form:

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City Attorney