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Prepared by: Kelley Thomas
Assistant County Attorney

Approved by: Brian Kuhn
County Attorney

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE SHELBY COUNTY CODE OF ORDINANCES, CHAPTER 12, SO AS TO ESTABLISH NON-DISCRIMINATION PROVISIONS REGARDING SEXUAL ORIENTATION OR GENDER IDENTITY OR EXPRESSION. SPONSORED BY COMMISSIONER STEVE MULROY.

WHEREAS, Consistent with the power to regulate acts that could be detrimental to the welfare of the inhabitants of Shelby County; and

WHEREAS, It is important to ensure that Shelby County Government’s employees and citizens of the community are not discriminated against based on Sexual Orientation or Gender Identity or Expression; and

WHEREAS, Based on the foregoing, Chapter 12 of the Shelby County Code of Ordinances should be amended to create a new article consisting of Sections 12-126 through 12-131 as more fully set forth below to prohibit discrimination based on Sexual Orientation or Gender Identity or Expression.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE,

that Chapter 12, of the Shelby County Code of Ordinances be and hereby is amended to create a new article to be entitled “Sexual Orientation; Gender Identity or Expression” and to include the following sections:

Section 12-126. Definitions:

For purposes of this article, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Employer means any person, company or corporation that employs 15 or more individuals and is located in the unincorporated areas of Shelby County.

Gender Identity or Expression means a person’s gender-related self-identity, appearance, expression or behavior, regardless of the person’s gender at birth.

Sexual Orientation means a person’s real or perceived sexual preference (i.e. heterosexuality, homosexuality, or bisexuality).

Section 12-127. Prohibition of discrimination based on Sexual Orientation or Gender Identity or Expression.

(a) Discrimination against any Shelby County Government employee based on Sexual Orientation, Gender Identity or Expression shall be prohibited.

(b) Discrimination by a contractor who contracts with Shelby County Government against a contractor's employee on the basis of Sexual Orientation or Gender Identity or Expression shall be prohibited.

(c) Discrimination by a private Employer in an unincorporated area of Shelby County against any person employed by such private Employer on the basis of Sexual Orientation or Gender Identity or Expression is prohibited, subject to the limitations in state law and the Shelby County Charter.

(d) The provisions of this article pertaining to contractors shall only apply to contracts with Shelby County Government for which an RFP, or any sealed bid or proposal is issued after July 1, 2009.

Section 12-128. Retaliation and discrimination barred.

It shall be unlawful to retaliate, discharge, demote, or take an adverse employment action in the terms and conditions of employment or otherwise discriminate against any employee for reporting or asserting a violation of this article, for seeking or communicating information regarding rights conferred under this article, for exercising any other rights protected under this article, or for participating in any investigatory proceeding relating to this article.

Section 12-129. Monitoring.

- (a) The Board of County Commissioners, through the Office of Equal Opportunity Compliance, shall monitor compliance with this article.
- (b) Allegations of discrimination against contractors or private Employers doing business in Shelby County prohibited by this article may be reported to the Office of Equal Opportunity Compliance.

Section 12-130. Penalties.

- (a) Debarment (or ineligibility) for three years.

In the event the Board of County Commissioners, based on recommendation by the Office of Equal Opportunity Compliance, determines that any contractor has intentionally violated the provisions of this article, the Board of County Commissioners shall notify the contractor of the violation and shall request the County Mayor cancel the contract in accordance with the termination provision of the contract and debar the contractor for a period of three (3) years.

- (b) Civil remedies.

(1) Shelby County Government may pursue injunctive relief, and other such equitable relief as appropriate against the contractor or private Employer.

(2) The provisions of this article do not create a private right of action against Shelby County Government for such contractor or private Employer's violation of the provisions herein.

Section 12-131. County services and facilities.

County services and facilities shall be available without discrimination based on Sexual Orientation, or Gender Identity or Expression.

BE IT FURTHER ORDAINED, That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, or sentences, clauses, phrases or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

BE IT FURTHER ORDAINED, That this ordinance shall take effect pursuant to the Shelby County Charter and become effective as provided by law.

Chairman of County Commission

A C Wharton, Jr.
Shelby County Mayor

Date: _____

ATTEST:

Clerk of County Commission

FIRST READING: _____

SECOND READING: _____

ADOPTED THIRD READING: _____