



Buncombe County Equal Employment Opportunity Plan (EEOP)

Plan Statement

Buncombe County is committed to the principle that equal employment opportunity in the public sector of the County must be afforded to all persons, regardless of race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, disability or any other legally protected class under federal or NC State law. No persons shall suffer discrimination with respect to employment or other terms or conditions of employment by reason of such person's status as enumerated above.

Buncombe County recognizes that equal employment opportunity may be ensured only by a carefully administered and practiced program designed to eliminate any practices, standards or conditions tending to result in discrimination, and by initiating positive efforts in recruitment, examination, selection, promotion, pay, and training procedures to extend equal employment opportunities to all qualified persons without limiting, segregating, or classifying employees and applicants for employment in any way which would deprive any individual of employment opportunities or otherwise affect his or her status as an employee because of such individual's race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, disability or any other legally protected class under federal or NC State law.

Objectives

- To achieve and advance equity in employment opportunities for all qualified persons without regard to race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, disability or any other legally protected class under federal or NC State law.
- To identify and remove any artificial, arbitrary or unnecessary barriers to employment which operate to discriminate on the basis of race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, disability or any other legally protected class under federal or NC State law.



Human Resources

Sharon Burke

Human Resources Director

- To increase employment opportunities and equal participation of all qualified persons by eliminating non-job related factors, conditions and requirements from any job vacancies.
- To evaluate the County's personnel activities and management to ensure compliance with state and federal employment regulations.
- To align with the goals of the Racial Equity Action Plan.
- To continue providing reasonable accommodation to employees and applicants with disabilities and for religious observances and practices.
- To provide an environment that allows for employees and applicants for employment to report incidents of discrimination or harassment without fear of retaliation, and committed to take prompt action when an employee, workforce member or non-employee has been found engaging in discrimination, retaliation or harassment (including sexual harassment) while conducting business on behalf of the County.

Scope

- The scope of this EEOP encompasses all phases of personnel management including, but not limited to, recruitment, applicant screening, examination, hiring, transfer, promotion, discipline, termination, compensation, benefits, and training.
- The Human Resources Director will oversee a program of outreach recruitment of qualified non-majority individuals for County employment and endeavor to attract such persons using a variety of recruitment methods and sources, including diversity focused websites and social media advertisements.
- The Human Resources Director will ensure that actions during employment, such as transfers, promotions and training opportunities will be available and accessible to all on a job-related basis. They will further ensure that all applicable personnel actions do not result in unlawful discrimination.
- Personnel data, including applicant and workforce demographics and disaggregated promotion and disciplinary action information will be gathered and stored in such a way that allows it to be monitored and reportable as necessary.
- All department heads will be responsible for implementing, practicing, and ensuring equal employment opportunity within their department. All department heads, managers and supervisors will be required to ensure their employees are aware of anti-discrimination practices and how to report such incidents, as outlined in County policies and procedures.
- The Human Resources Department will provide annual workplace anti-discrimination and anti-harassment trainings to all staff.



Human Resources

Sharon Burke

Human Resources Director

- Utilization Reports will be produced annually, which will include a compilation key employment data, organized by race, national origin and sex related to the following employment actions across major job categories: Recruitment; Applicant screening; Hiring; Promotion; Termination; Transfer; and Discipline. Reports will include analysis of underutilization and include objectives as needed regarding policy or practice enhancements to increase equal opportunity and representation. Utilization reports and related certifications will be submitted as needed to third parties for the purpose of compliance with federal funding regulations.
- This EEO and Utilization Reports will be disseminated for inspection by County employees via the organizational intranet site, and the information will be externally disseminated to the public via the County website. Applicants, vendors and contractors will be notified in writing that the County has developed an EEO and that it is available on request for review. The Human Resources Department will be available to explain the purposes and objectives of the Equal Employment Opportunity Plan to all County employees.
- The County will continue to support the work of equity focused teams tasked with obtaining and maintaining data and data sources, review and revision of policies, procedures and protocols, all with the focus of continuing our efforts towards a more equitable workforce. County department heads will ensure representation in such groups from diverse workforce members and allow for active participation in such groups.
- All employees are an integral part of ensuring our core values of respect, honesty, integrity, collaboration and equity are put into action, and are thus held responsible for maintaining a workplace free from discrimination and to commit to ensuring a workplace of equity and inclusiveness.

Administration

- Buncombe County's Human Resources Director shall be responsible for the overall coordination of this program of Equal Employment Opportunity. The Human Resource Director shall monitor and analyze Buncombe County employment patterns monthly in accordance with the Equal Employment Opportunity Plan.
- All department heads and County departments shall cooperate with the Human Resources Director in the continued implementation of this program.
- Any employee or applicant for employment with Buncombe County who believes they have suffered discrimination on the basis of race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or



Human Resources

Sharon Burke

Human Resources Director

ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, disability or any other legally protected class under federal or NC State law and is in violation of the policies set forth herein is encouraged to bring such claim to the attention of the Human Resources Director. Any employee of Buncombe County who fails to comply with this policy is subject to appropriate disciplinary action.

EEO Utilization Report

Organization Information

Name: BUNCOMBE, COUNTY OF

City: ASHEVILLE

State: NC

Zip: 28802-7526

Type: County/Municipal Government

We have taken the following steps towards meeting the objectives we developed in 2021:

- Foster community engagement with an emphasis on recruiting applicants from underutilized populations for open positions with the County.
 - We attend the following community events:
 - Hola Carolina, UNCA/WCU, WNC Career Expo, Various Career Days, Board and Commissioner Fair, Mountain Community Career & Resources Expo, etc.
- Build a network of like-minded community partners such as the Asheville Chamber of Commerce and the Western North Carolina Community Engagement Coalition to share employment best practices and promote opportunities for training.
 - Recruiting regularly attends the Inclusive Hiring Partners monthly meeting that is hosted by the Asheville Area Chamber of Commerce to learn more about ways to reduce employment barriers and share best practices with regional employers.
 - Recruiting Manager attended local Diversity Equity and Inclusion Symposium in November 2023 to gather information about evolving trends in the DEI space, specifically regarding Recruiting and Retention.
 - Recruiting Manager attended the Land of Sky Workforce Development Symposium to network with area schools and employers to learn more about local opportunities to connect with and attract diverse student populations, and to better understand how educational attainment influences students' long-term career aspirations, and how to connect with those student populations via recruiting practices.
- Require training for all interview panel members regarding the benefits of hiring a diverse and inclusive workforce and instruct hiring managers on appropriate interview techniques that support equity in the hiring process.
 - We provide the following training:
 - Racial Equity Training
 - Supervisors must attend the training
 - Hiring Manager Training
 - Implicit Bias Trainings
 - Supervisor Boot Camp – Section on Recruiting & Selection
 - Behavioral Interviewing Trainings
 - Panel Interview Trainings
 - In addition we:
 - Use substantial equivalency when calculating pay
 - Recruiters review and approve all interview questions before they are asked
- Expand offerings for all staff regarding the benefits of a diverse and inclusive workforce.
 - Equity is one of the County's core values that is at the forefront of any decisions we make. The core values are part of the County's Employee Code of Conduct Policy.
 - We also offer Racial Equity and LGBTQIA+ training to our employees, which includes discussion of the benefits of a diverse and inclusive workforce.
 - Buncombe County is committed to supporting the growth and development of workplace and workforce equity by fostering affinity groups for employees who are historically disadvantaged. Currently Buncombe County has two affinity groups:
 - BE You: Employee LGBTQIA+ Workgroup
 - Professionals of Color Public Service Resource Group

- Implement strategic priorities and components of the Racial Equity Action Plan that support our goal of a diverse and inclusive workforce.
 - We are committed to meeting the priorities listed in our Racial Equity Action Plan and have recently provided updates on our progress for achieving these goals.
- Advertise all external Buncombe County job vacancies on websites that reach a variety of diverse and inclusive audiences, while continuing to post all vacancies on the Buncombe County Recruitment page, and with the North Carolina Department of Commerce – Employment Security Division.
 - Along with the County website, we post jobs to various community organizations and sites such as:
 - NCWorks, Indeed, JobCat (WCU site), Handshake, GARE, Governmentjobs.com, National Forum for Black Public Administrators, UNC School of Government, Campuspride.jobs, Feminist.org, Talentify, etc.
 - Recruiting has updated candidate source tracking and evaluates most effective sites/locations for attracting diverse candidates. Most of the candidates come from Indeed.com.
- Review our HRIS applicant tracking system for opportunities for improvement related to equity and determine what actionable steps can be taken within the next year.
 - We have been tracking this data and have regularly scheduled team meetings to determine how to improve equity.
- Audit Buncombe County’s application and hiring practices using a recognized equity analysis tool and share the results with the County’s newly hired Chief Equity and Human Rights Officer to develop and enhance a strategic approach to hiring a more diverse and inclusive workforce.
 - This process is still ongoing as we further work to enhance the hiring practices. We have created a focus group, that includes Equity and Inclusion staff members, to help review where we can make improvements in our hiring process.
- Assess and recalibrate our action plan to ensure in support of identified equity goals contained in the Buncombe County Strategic plan and HR Business Plan, including an inclusive recruitment and retention strategy.
 - We continue to monitor our equity goals to ensure progress and areas that could be enhanced.

Interpretation of Utilization Analysis Charts

Compared to 2021, Buncombe County Government **continues** to have an underrepresentation of:

- White males in the Professionals and Administrative Support job categories.
- Hispanic or Latino males in the Skilled Craft category
- Black or African American males in the Protective Services: Sworn category
- White females in the Service/Maintenance category

Compared to 2021, Buncombe County Government **developed** an underrepresentation of:

- Hispanic or Latino males in the Technicians category (new category)

- Black or African American males in the Professionals, Technicians, Administrative Support and Service/Maintenance categories
- Asian males and females in the Professionals category
- Black or African American females in the Professionals, Technicians, Protective Services: Sworn, Protective Services: Non-sworn, and Service/Maintenance categories

Compared to 2021, Buncombe County Government **no longer** has an underrepresentation of:

- Hispanic or Latino males in the Professionals and Protective Services: Non-sworn categories
- White females in the Protective Services: Non-sworn category
- Hispanic or Latino females in the Professionals category

The Buncombe County Strategic Plan places equity as both a foundational focus area and a value. Additionally, our Racial Equity Action Plan provides measurable goals to help us create the path there.

As part of these plans, we are enhancing our equity and inclusion practices in the following ways:

- The Human Resources Department has been working to increase outreach for BIPOC individuals who reside in our community by attending community events in our Latino neighborhoods and attending additional community events in our historically Black neighborhoods.
- The Human Resources Department, along with the Equity and Inclusion Office will review the full Recruiting and Selection process to determine if there are barriers to employment. This Task Force will apply an equity lens to the full process to determine where improvements can be made.
- The Equity and Inclusion Office reviews all revisions to County policies and procedures.
- Buncombe County Human Resources added an Employee Engagement & HR Communications Manager position to focus on employee engagement and retention. Buncombe County conducts Stay Surveys for areas experiencing high turnover to help leaders identify why employees stay and what they can proactively do to continue to retain them. The Human Resources Department and Strategy and Innovation Department work together to administer these surveys.
- Buncombe County is also working on a strategic initiative to roll out an official Engagement Survey in 2024. This project will involve survey development and administration, data analysis, and action planning based on the survey results so we may improve engagement. We anticipate completing a report and action plan based on the results of this survey by the end of 2024.
- Buncombe County offers an online exit survey or in-person exit interview to employees who leave the organization (Sheriff's Office employees receive an online exit survey invitation only). This initiative is also new as of August 2022.
- Buncombe County is conducting a comprehensive performance audit in response to a recommendation from the Community Reparations Commission. This audit is assessing the county and city's compliance, operation, and performance in ceasing harm directly impacting the African American community. To accomplish this, the county and city have partnered with the Carter Development Group (CDG), a research and consulting firm, who has crafted a matrix to guide the data collection process. We are awaiting the results of this audit to develop an action plan on improving our utilization of Black or African American employees.

Section 1: EEO Policy Statement

Policy Statement:

ORDINANCE PROHIBITING DISCRIMINATION IN EMPLOYMENT AND PUBLIC ACCOMMODATIONS

- Attached

Non-Discrimination and Anti-Harassment Policy: <https://www.buncombecounty.org/common/policies/Non-Discrimination%20and%20Anti-Harassment%20Policy.pdf>

Following File has been uploaded:NonDiscriminationOrdinance (final).pdf

Section 5: Narrative Interpretation of Data

See attachment

Following File has been uploaded:2023 EEOP Narrative.pdf

Section 6: Objectives and Steps

1. Implement equitable hiring and recruitment practices

- a. Define target populations of individuals who may be negatively impacted
Hector Salgado, Susan Hall
February 28, 2024
- b. Review current data (declined candidates by stage and race/gender/protected status, background results, etc.)
Caroline Long, Susan Hall
March 30, 2024
- c. Review options for how to survey the potential candidate pool to inquire if the Countys Recruiting and Selection process is excluding people from applying.
Nnweyna Smith
August 15, 2024
- d. Consider additional diverse job posting sites/methods
Caroline Long, Jennifer Villatoro
May 15, 2024
- e. Review Hiring Manager Training and ask HMs about barriers to equitable hiring
Hector Salgado
October 1, 2024
- f. Review recruiting industry best practices
Amy Flaherty, Hector Salgado, Gabriel Huffman
November 15, 2024
- g. Provide a summary of findings and recommendations in a final report.
Caroline Long, Hector Salgado, Nnweyna Smith, Amy Flaherty
December 15, 2024

2. Create and send employee experience survey

- a. Develop Survey Questions
Employee Engagement and HR Communications Manager
October - November 2023
- b. Purchase Qualtrics software
Strategy and Innovation, IT and HR Departments
December 2023
- c. Software implementation
Strategy & Innovation, IT and HR Departments
January - April 2024
- d. Send employees the survey
Strategy and Innovation Department
May 2024
- e. Review results of the surveys and determine action plan
June - August 2024
Strategy & Innovation and HR Departments

Section 7: Dissemination Strategy: Internal

We will post a copy of the Report on the County's intranet, an in-house, electronic communication service that only employees can access.

Section 7: Dissemination Strategy: External

We will post a copy of the Report on the County's public website.

Utilization Analysis Chart
Relevant Labor Market: Buncombe County
, North Carolina

| Job Categories | Male | | | | | | | Female | | | | | | |
|---------------------------------------|------------|--------------------|---------------------------|----------------------------------|--------|---|-------------------------|------------|--------------------|---------------------------|----------------------------------|--------|---|-------------------------|
| | White | Hispanic or Latino | Black or African American | American Indian or Alaska Native | Asian | Native Hawaiian or Other Pacific Islander | Two or More Races/Other | White | Hispanic or Latino | Black or African American | American Indian or Alaska Native | Asian | Native Hawaiian or Other Pacific Islander | Two or More Races/Other |
| Officials/Administrators | | | | | | | | | | | | | | |
| Workforce #/% | 61/55% | 1/1% | 5/5% | 0/0% | 0/0% | 0/0% | 1/1% | 32/29% | 2/2% | 8/7% | 1/1% | 0/0% | 0/0% | 0/0% |
| CLS #/% | 9,330/52% | 325/2% | 125/1% | 15/0% | 125/1% | 0/0% | 140/1% | 7,010/39% | 210/1% | 295/2% | 15/0% | 55/0% | 0/0% | 130/1% |
| Utilization #/% | 2% | -1% | 4% | -0% | -1% | 0% | 0% | -11% | 1% | 6% | 1% | -0% | 0% | -1% |
| Professionals | | | | | | | | | | | | | | |
| Workforce #/% | 256/28% | 16/2% | 13/1% | 1/0% | 1/0% | 1/0% | 3/0% | 510/56% | 41/4% | 47/5% | 6/1% | 6/1% | 0/0% | 11/1% |
| CLS #/% | 11,675/36% | 435/1% | 450/1% | 15/0% | 255/1% | 0/0% | 70/0% | 18,220/56% | 580/2% | 630/2% | 10/0% | 215/1% | 4/0% | 85/0% |
| Utilization #/% | -8% | 0% | 0% | 0% | -1% | 0% | 0% | 0% | 3% | 3% | 1% | -0% | -0% | 1% |
| Technicians | | | | | | | | | | | | | | |
| Workforce #/% | 30/30% | 0/0% | 2/2% | 0/0% | 0/0% | 0/0% | 1/1% | 57/58% | 3/3% | 1/1% | 0/0% | 1/1% | 1/1% | 3/3% |
| CLS #/% | 5,760/44% | 515/4% | 510/4% | 120/1% | 55/0% | 4/0% | 40/0% | 5,275/40% | 280/2% | 375/3% | 75/1% | 25/0% | 40/0% | 85/1% |
| Utilization #/% | -13% | -4% | -2% | -1% | -0% | -0% | 1% | 17% | 1% | -2% | -1% | 1% | 1% | 2% |
| Protective Services: Sworn | | | | | | | | | | | | | | |
| Workforce #/% | 140/74% | 6/3% | 11/6% | 2/1% | 3/2% | 1/1% | 1/1% | 20/11% | 0/0% | 3/2% | 1/1% | 1/1% | 0/0% | 0/0% |
| CLS #/% | 1,910/83% | 40/2% | 35/2% | 0/0% | 0/0% | 0/0% | 35/2% | 230/10% | 30/1% | 25/1% | 0/0% | 0/0% | 0/0% | 0/0% |
| Utilization #/% | -9% | 1% | 4% | 1% | 2% | 1% | -1% | 1% | -1% | 1% | 1% | 1% | 0% | 0% |
| Protective Services: Non-sworn | | | | | | | | | | | | | | |
| Workforce #/% | 44/53% | 3/4% | 5/6% | 1/1% | 0/0% | 0/0% | 1/1% | 22/27% | 1/1% | 2/2% | 1/1% | 0/0% | 1/1% | 2/2% |
| Civilian Labor Force #/% | 160/71% | 0/0% | 0/0% | 0/0% | 0/0% | 0/0% | 0/0% | 65/29% | 0/0% | 0/0% | 0/0% | 0/0% | 0/0% | 0/0% |
| Utilization #/% | -18% | 4% | 6% | 1% | 0% | 0% | 1% | -2% | 1% | 2% | 1% | 0% | 1% | 2% |
| Administrative Support | | | | | | | | | | | | | | |
| Workforce #/% | 18/15% | 2/2% | 2/2% | 0/0% | 0/0% | 0/0% | 1/1% | 68/56% | 7/6% | 15/12% | 2/2% | 4/3% | 0/0% | 2/2% |
| CLS #/% | 10,235/33% | 430/1% | 480/2% | 100/0% | 15/0% | 0/0% | 130/0% | 16,815/54% | 1,160/4% | 935/3% | 135/0% | 165/1% | 15/0% | 315/1% |

| Job Categories | Male | | | | | | | Female | | | | | | |
|----------------------------|------------|--------------------|---------------------------|----------------------------------|--------|---|-------------------------|------------|--------------------|---------------------------|----------------------------------|--------|---|-------------------------|
| | White | Hispanic or Latino | Black or African American | American Indian or Alaska Native | Asian | Native Hawaiian or Other Pacific Islander | Two or More Races/Other | White | Hispanic or Latino | Black or African American | American Indian or Alaska Native | Asian | Native Hawaiian or Other Pacific Islander | Two or More Races/Other |
| Utilization #/% | -18% | 0% | 0% | -0% | -0% | 0% | 0% | 2% | 2% | 9% | 1% | 3% | -0% | 1% |
| Skilled Craft | | | | | | | | | | | | | | |
| Workforce #/% | 25/86% | 0/0% | 1/3% | 0/0% | 0/0% | 0/0% | 0/0% | 3/10% | 0/0% | 0/0% | 0/0% | 0/0% | 0/0% | 0/0% |
| CLS #/% | 9,315/81% | 885/8% | 85/1% | 4/0% | 60/1% | 0/0% | 40/0% | 630/5% | 265/2% | 110/1% | 25/0% | 45/0% | 0/0% | 15/0% |
| Utilization #/% | 5% | -8% | 3% | -0% | -1% | 0% | -0% | 5% | -2% | -1% | -0% | -0% | 0% | -0% |
| Service/Maintenance | | | | | | | | | | | | | | |
| Workforce #/% | 35/88% | 1/2% | 0/0% | 1/2% | 0/0% | 0/0% | 1/2% | 2/5% | 0/0% | 0/0% | 0/0% | 0/0% | 0/0% | 0/0% |
| CLS #/% | 14,760/42% | 2,375/7% | 1,725/5% | 75/0% | 280/1% | 25/0% | 340/1% | 12,410/35% | 1,170/3% | 1,495/4% | 110/0% | 200/1% | 25/0% | 245/1% |
| Utilization #/% | 46% | -4% | -5% | 2% | -1% | -0% | 2% | -30% | -3% | -4% | -0% | -1% | -0% | -1% |

Significant Underutilization Chart

| Job Categories | Male | | | | | | | Female | | | | | | |
|---------------------------------------|-------|--------------------|---------------------------|----------------------------------|-------|---|-------------------------|--------|--------------------|---------------------------|----------------------------------|-------|---|-------------------------|
| | White | Hispanic or Latino | Black or African American | American Indian or Alaska Native | Asian | Native Hawaiian or Other Pacific Islander | Two or More Races/Other | White | Hispanic or Latino | Black or African American | American Indian or Alaska Native | Asian | Native Hawaiian or Other Pacific Islander | Two or More Races/Other |
| Officials/Administrators | | | | | | | | ✓ | | | | | | |
| Professionals | ✓ | | | | ✓ | | | | | | | | | |
| Technicians | ✓ | ✓ | | | | | | | | | | | | |
| Protective Services: Sworn | ✓ | | | | | | | | | | | | | |
| Protective Services: Non-sworn | ✓ | | | | | | | | | | | | | |
| Administrative Support | ✓ | | | | | | | | | | | | | |
| Service/Maintenance | | | | | | | | ✓ | | | | | | |

I understand the regulatory obligation under 28 C.F.R. ~ 42.301-.308 to collect and maintain extensive employment data by race, national origin, and sex, even though our organization may not use all of this data in completing the EEO Utilization Report.

I have reviewed the foregoing EEO Utilization Report and certify the accuracy of the reported workforce data and our organization's employment policies.

Certified As Final By: Samantha Bowers

Grants Administrator

01-25-2024

[signature]

[title]

[date]

ORDINANCE NO. _____

ORDINANCE PROHIBITING DISCRIMINATION
IN EMPLOYMENT AND PUBLIC ACCOMMODATIONS

WHEREAS, pursuant to N.C. Gen. Stat. §153A-121 a county may by ordinance define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances;

WHEREAS, this Board finds that discriminatory practices in employment and public accommodations constitutes a nuisance that is detrimental to the health, safety, or welfare of its citizens; and

WHEREAS, this Board has determined that it is in the best interest of the citizens and residents of Buncombe County to enact protections against discrimination that reflect the community's shared values of equality, inclusion, and fair access, and to preserve the health, safety, and welfare of people without regard to certain actual or perceived status or characteristics.

NOW THEREFORE, BE IT ORDAINED BY THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS THAT:

Section 1. The Buncombe County Code of Ordinances on file with Buncombe County Clerk to the Board of Commissioners shall be amended by including the following:

Chapter 42. NON-DISCRIMINATION ORDINANCE

42-1. DEFINITIONS.

- a. *Discrimination* means any difference in treatment based on race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, or disability.
- b. *Employer* means any person employing one or more persons within the County and any person acting in the interest of an employer, directly or indirectly, including an employment agency. "Employer" shall include the County and any County Contractor.
- c. *Gender identity or expression* means having or being perceived as having gender-related identity, expression, appearance, or behavior, whether or not that identity, expression, appearance, or behavior is different from that traditionally associated with the sex assigned to that individual at birth.

- d. *Person* includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, unincorporated organizations, fiduciaries, and other organized groups of persons.
- e. *Public accommodation* (or *place of public accommodation*) means any place, facility, store, or other establishment which supplies accommodations, goods, or services to the public or which solicits or accepts the patronage or trade of the public.
- f. *Reasonable cause* in preponderance of the evidence which is evidence, when taken as a whole, shows the violation is more likely than not.

42-2. DISCRIMINATION IN EMPLOYMENT PROHIBITED.

It shall be unlawful for any employer, because of the race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, or disability of any person to refuse to hire or otherwise discriminate against that person with respect to hire, tenure, conditions, or privileges of employment, or any matter directly or indirectly related to employment.

42-3. EXEMPTIONS.

- a. **General exceptions.** Notwithstanding the prohibition on discrimination in employment set forth in 42-2, it is not unlawful for:
 - 1. An Employer to employ, admit, classify, or refer any individual on the basis of race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, or disability, in those certain instances where race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, or disability status is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.
 - 2. An Employer to print or publish, or caused to be printed or published, any notice or advertisement indicating any preference, limitation, specification, or discrimination, based on race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, or disability, in such instances when race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, or disability status is a bona fide occupation qualification for employment.
 - 3. A school, college, university, or other educational institution, or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

4. An Employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, so long as the differences are not the result of an intention to discriminate because of race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, or disability.
5. An Employer to give and to act upon the results of any professionally developed ability test provided that the test, its administration, or action upon the results is not designed, intended, or used to discriminate because of race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, or disability.
6. An Employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of the employer if the differentiation is authorized by the provisions of section 6(d) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 206(d)).
7. An Employer to refuse to assign or continue to assign an individual to a job involving food handling in any case in which such individual has an infectious or communicable disease that is:
 - i. Transmitted to others through the handling of food;
 - ii. Is included on the list developed by the Secretary of the United States Department of Health and Human Services pursuant to section 103(d) of the Americans with Disabilities Act of 1990, (42 U.S.C. §§ 12101, et seq.); and
 - iii. Cannot be eliminated by reasonable accommodation. Nothing in this subsection shall be construed to preempt, modify, or amend any state, county, or local law, ordinance, or regulation applicable to food handling.

b) **Exceptions regarding drug and alcohol use.** Notwithstanding the prohibition on discrimination in employment set forth in 42-2, it is not a violation of this Ordinance for an Employer to:

1. Adopt or administer reasonable policies or procedures, including but not limited to drug testing.
2. Prohibit the illegal use of drugs and the use of alcohol at the workplace by employees.
3. Require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace.
4. Require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 701 et. seq.).
5. Hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that the entity

holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of the employee.

6. With respect to federal regulations regarding alcohol and the illegal use of drugs, require that employees comply with the standards established in federal regulations of the Department of Defense, the Nuclear Regulatory Commission, and/or the Department of Transportation, if the employees of the Employer are employed in an industry subject to the regulations of any such federal agency.

c) **Miscellaneous.** The prohibitions in this Ordinance against discrimination in employment based upon disability shall not be construed to prohibit or restrict:

1. An insurer, hospital, medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or
2. A person or organization covered by this Ordinance from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering those risks that are based on or not inconsistent with State law; or
3. A person or organization covered by this Ordinance from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.
4. Nothing in this Ordinance shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept;
5. Nothing contained in this Ordinance shall apply to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.
6. With respect to discrimination based on age, it is not unlawful for a Employer to take any action otherwise prohibited under this Ordinance:
 - i. Where the differentiation is based on reasonable factors other than age;
 - ii. Where such practices involve an employee in a workplace in a foreign country, and compliance with those subsections would cause such employer, or a corporation controlled by such employer, to violate the laws of the country in which such workplace is located; or
 - iii. To observe the terms of a bona fide seniority system; or
 - iv. To observe the terms of a bona fide employee benefit plan; or
 - v. To discharge or otherwise discipline an individual for good cause.
7. Nothing in this Ordinance shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age provided such retirement is part of a practice consistent with a bona fide employee retirement plan.

42-4. DISCRIMINATION IN PUBLIC ACCOMMODATIONS PROHIBITED.

It shall be unlawful for any proprietor or their employer, keeper, or manager in a place of public accommodation to deny any person, except for reasons applicable alike to all persons, regardless of race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, or disability, the full enjoyment of the accommodations, advantages, facilities or privileges thereof.

42-5. EXEMPTIONS. The provisions of 42-4 prohibiting discrimination in public accommodations shall not apply to a private club or other establishments not in fact open to the public.

42-6. HOUSING.

- a) Buncombe County will assist its residents in filing housing discrimination claims with the North Carolina Human Relations Commission.
- b) In offering this assistance, and consistent with the recent Supreme Court of the United States decision in *Bostock v. Clayton County*, Buncombe County interprets the prohibition on sex discrimination in housing to include discrimination on the basis of sexual orientation and gender identity.
- c) In offering this assistance, Buncombe County interprets the prohibition on race discrimination in housing to include discrimination on the basis of natural hair or hairstyles.

42-7. ENFORCEMENT. Complaints alleging violations of this Chapter shall be filed and investigated as follows:

- a) Any person who claims to have been injured, or claims they are currently being injured, or who reasonably believes that they will be injured, by any practice made unlawful under this Ordinance may file a Complaint with an equity officer or such other person as designated by the County Manager hereinafter referred to as ("EO").
- b) Complaints shall be in writing, signed and verified by the Complainant. Complaints shall state the facts upon which the allegation of an unlawful discriminatory practice is based and shall contain such other information and be in such form as the EO requires.
- c) A Complaint that alleges an unlawful employment practice under this Ordinance must be filed with the EO no later than 180 days after the occurrence, or cessation of the alleged unlawful employment practice.
- d) A Complaint that alleges discrimination in public accommodations under this Ordinance must be filed with the EO no later than one year from the date of the occurrence, or cessation of the alleged unlawful practice.

- e) The EO shall serve upon the Respondent and Complainant a copy of the Complaint and a notice advising the Respondent and Complainant of their procedural rights and obligations under this Ordinance within ten days after the Complaint is filed.
- f) A Respondent may file an answer to the Complaint within thirty (30) days after receiving a copy of the Complaint. Answers shall be signed and verified by the Respondent and shall be filed with the EO.
- g) With leave of the EO, which leave shall be granted whenever it would be reasonable and fair to do so, Complaints and Answers may be amended at any time. Amendments shall be reduced to writing, signed, verified, and filed with the EO. Amendments shall relate back to the date the original Complaint or Answer was filed.
- h) EO shall, within 30 days after the filing of a Complaint, commence an investigation into the allegations contained in the Complaint.
- i) In conducting an investigation, the EO shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence to ascertain the factual basis of the allegations contained in the Complaint.
- j) Further, the EO may examine, record, and copy such materials and take and record the testimony or statements of such persons as reasonably necessary for the furtherance of the investigation.
- k) In conducting an investigation, the EO may:
 - i. request production of documents, materials, or other evidence;
 - ii. request witnesses, including any party, to appear and give testimony before the EO;
 - iii. Issue interrogatories to a Respondent.
- l) Upon written application to the EO, a Respondent shall be entitled to the issuance of interrogatories directed to the Complainant and to request production of documents, materials, or other evidence.
- m) Complaints may be resolved at any time by informal conference, conciliation, or persuasion. Nothing said or done in the course of such informal procedure may be made public without the written consent of the person concerned. However, all resolutions of complaints shall be reduced to writing, shall be signed by the Complainant, the Respondent, and the EO and shall be enforceable as a binding contract.
- n) All complaints alleging an unlawful discriminatory housing practice shall be handled in the manner described in section 42-6, Housing.

42-8. REASONABLE CAUSE AND CONCILIATION EFFORTS.

- a) If the Complaint is not sooner resolved, the EO shall, upon completion of the investigation, determine whether or not there is reasonable cause to believe that an unlawful discriminatory practice has occurred or is occurring.
- b) The EO shall make their determination on reasonable cause as promptly as possible and, so far as practicable, no later than 100 days after the Complaint was filed. If the EO is unable to complete the investigation within 100 days after the filing of the complaint the EO shall notify the complainant and respondent in writing of the reasons for not doing so.

- c) At the end of each investigation, a final investigative report will be prepared and, notwithstanding the prohibitions and requirements with respect to disclosure of information, the report will be made available to the parties upon request.
- d) In the event the EO determines that there is not reasonable cause to believe that an unlawful discriminatory practice has occurred or is occurring, or should the EO be unable to confirm or deny that discrimination took place they shall dismiss the Complaint and notify the Complainant and the Respondent of the decision.
- e) If the EO determines that reasonable cause exists, the EO shall notify the Complainant and the Respondent and shall attempt to resolve the Complaint by conference, conciliation, and/or persuasion.
- f) All conciliation agreements shall be signed by the Complainant and the Respondent and shall be recognized as a legally enforceable contract. To the extent required by law, each conciliation agreement shall be made public.
- g) If the EO, after a finding of reasonable cause, is unable to resolve the Complaint by conference, conciliation, or persuasion, it shall issue a written declaration that conciliation efforts have failed.
- h) If the EO issues a written declaration that conciliation efforts have failed, then the EO may issue penalties as authorized herein.

42-9. APPEALS.

Appeals from final decisions of the EO that there is reasonable cause to believe that a violation of the Ordinance has occurred may be appealed to a panel consisting of an assistant county manager, a staff attorney, and the strategic partnerships director. Appeals must be made in writing and delivered to the Clerk to the Board of the Buncombe County Commission within ten (10) days of receipt of the decision.

42-10. PENALTIES.

Pursuant to G.S. § 153A-123, the county manager, in consultation with county legal services, may choose from the remedies set forth below to enforce the requirements of this Chapter when there is a failure to comply with the requirements of this Chapter. Those remedies are as follows:

- a. In addition to or in lieu of the other remedies set forth in this Chapter the County Manager, or their designee, may issue a citation setting forth a civil penalty of \$100.00. In the case of a continuing violation, each 24-hour period in which the violation continues to exist shall constitute a separate violation. The citation shall be served upon the person violating any of the requirements of this Section by hand delivery or certified mail or by any other means made in accordance with the North Carolina Rules of Civil Procedure. In the event the violator does not pay the penalty within 30 days of service of the citation, the civil penalty shall be collected by the county in a civil action in the nature of debt, which shall not subject the offender to the penalty provisions of G.S. § 14-4.
- b. In addition to or in lieu of other remedies set forth in this Chapter, the county manager may direct county legal services to seek injunctive relief in the appropriate court.

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

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

Section 4. That provisions of this Ordinance shall take effect and be in force on July 1, 2021.

This the 20th day of April, 2021.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Lamar Joyner, Clerk

By: _____
Brownie Newman, Chairman

APPROVED AS TO FORM

County Attorney