



LEGAL DIVISION
400 S. Vine St., Urbana, IL 61801
P.O. Box 219, Urbana, IL 61803-0219
(217) 384-2464
Fax: (217) 384-2460

DATE: January 19, 2016
TO: Mayor Prussing, City Council
CC: Todd Rent
FROM: James Simon

RE: Repeal of City Ordinance Requiring Nonelected Employees to Retire at Age 70.

In 1975, the City adopted Section 2-101 of the Urbana City Code which requires nonelected employees to retire from their employment with the City upon attaining age 70 years. The ordinance contains no rational basis for requiring such retirement upon attaining age 70 years.

The Illinois Human Rights Act (755 ILCS 5/1-101 *et seq.*) (the “Act”) became effective on July 1, 1980. The Act defines “age” as the chronological age of a person who is at least 40 years old. 755 ILCS 5/1-103). Further, the Act, *inter alia*, prohibits discrimination in employment, *inter alia*, in “tenure or terms” based on age. 775 ILCS 5/2-102(A). The federal Age Discrimination in Employment Act (29 U.S.C. § 621 *et seq.*) also bans discrimination on the basis of age. 29 U.S.C. § 623. Thus, Section 2-101 of the Urbana City Code stands in contradistinction to both state and federal law.

The Legal Division recommends that the City Council repeal Urbana City Code Section 2-101 effective immediately upon adoption of an ordinance (see attached) providing for such repeal.

ORDINANCE NO. 2016-01-006

AN ORDINANCE TO REPEAL URBANA CITY
CODE CHAPTER 2, ARTICLE V, SECTION 2-101

(Repeal of City Ordinance Requiring Nonelected Employees to Retire at Age 70 years)

WHEREAS, the City of Urbana (the “City”) is a home rule unit of local government pursuant to Article VII, Section 6 of the Illinois Constitution of 1970 and may exercise any power and perform any function pertaining to its government and affairs, including but not limited to the creation and dissolution of boards and commissions to assist with the performance and functioning of its governmental affairs; and

WHEREAS, in 1975, the City adopted an ordinance which requires nonelected City employee to retire from their employment with the City upon attaining age 70 years; and

WHEREAS, the General Assembly enacted and the Governor signed into law the Illinois Human rights Act which took effect on July 1, 1980 (775 ILCS 5/1-101 *et seq.*) (the “Act”) which Act has been amended from time to time; and

WHEREAS, the Act has declares as public policy that individuals shall be free from discrimination on the basis of a number of classifications including, *inter alia*, “age” (775 ILCS 5/1-102(A)); and

WHEREAS, the Act defines “age” as the chronological age of a person who is at least 40 years old (775 ILCS 5/1-103); and

WHEREAS, the Act declares it unlawful for an employer to discriminate on the basis of, *inter alia*, tenure or terms of employment (775 ILCS 5/2-102(A)); and

WHEREAS, the City Council deems it necessary and appropriate to conform the currently existing Ordinance Section 2-101 to the Act by repealing the aforesaid section.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, AS FOLLOWS:

Section 1. Chapter 2, Article V, Section 2-101 of the Urbana City Code entitled “Retirement” shall be and hereby is repealed and the following language shall be deleted from the Urbana City Code:

Each nonelected regular employee of the city, whether employed on a permanent basis or appointed on a yearly basis shall retire by the attainment of the age of seventy (70) years.

Section 2. This Ordinance shall become effective immediately upon its adoption by the City Council.

Section 3. This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action accrued or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired or affected by this Ordinance.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2016.

AYES:

NAYS:

ABSENT:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, 2015.

Laurel Lunt Prussing, Mayor