Passed: 7-0
Cole, Sherman absent

ORDINANCE 98-22

TO AMEND CHAPTER 2.21 ENTITLED "DEPARTMENT OF LAW"
(Updating the Authority of the Bloomington Human Rights Commission)

WHEREAS, it is the public policy of the City of Bloomington "to provide all citizens equal opportunity for education, employment, access to public accommodations and acquisition through purchase or rental of real property including but not limited to housing;" and

WHEREAS, the Indiana State Legislature has amended the Indiana Civil Rights Law in order to allow local human rights commissions to better achieve the goals of the City's public policy; and

WHEREAS, on May 18, 1998, the Bloomington Human Rights Commission approved the following amendments to Chapter 2.21 of the Bloomington Municipal Code entitled, "Department of Law;" and

WHEREAS, the Common Council and Mayor believe these amendments will better achieve the goals of the City's public policy;

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Section 2.21.020, Public Policy and Purpose, shall be amended to replace the word "handicap" with "disability" each time it occurs.

SECTION 2. Part (10) of Section 2.21.030, Definitions, shall be amended to replace the word "handicap" with "disability" each time it occurs, and "handicapped person" with "person with a disability" each time it occurs.

SECTION 3. Part (15) of Section 2.21.030, Definitions, shall be repealed and replaced with the following:

(15) "Disabled" means (A) with respect to a person: (i) a physical or mental impairment that substantially limits one or more of the person's major life activities; (ii) a record of having an impairment described in subdivision (i); or (iii) being regarded as having an impairment described in subsection (i).

(B) The term "disabled" does not include the following: current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)), homosexuality, bisexuality, transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, compulsive gambling, kleptomania, pyromania or psychoactive substance use disorders resulting from current illegal use of drugs.

SECTION 4. Part (2) of Section 2.21.070, Powers and Duties, shall be amended to replace the word "handicap" with "disability."

SECTION 5. Part (3) of Section 2.21.070, Powers and Duties, shall be amended to replace "ninety days" with "180 days" and "ninety-day limitation" with "180-day limitation."

SECTION 6. Part (8) of Section 2.21.070, Powers and Duties, be amended to replace the word "handicap" with "disability" each time it occurs, and "handicapped person" with "person with a disability" each time it occurs.

SECTION 7. Section 2.21.080 be amended to replace the word "handicap" with "disability."

SECTION 8. Section, 2.21.095, Housing Discrimination, shall be added to the chapter and shall read as follows:

2.21.095 Housing Discrimination - definitions . This section applies only to cases alleging housing discrimination.

(a) Definitions:

(1) "Familial status" means one or more individuals (who have not obtained the age of 18 years) being domiciled with a parent or another person having legal custody of such individual(s) or the written permission of such parent or other person. The protections against discrimination on the basis of familial status shall apply to any person who is pregnant or in the process of securing legal custody of any individual who has not attained the age of 18 years.

(2)"Dwelling" means any building, structure, or part of a building or structure, that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building structure or part of a building or structure that is occupied as, or designed or intended for occupancy by one or more families.

(3) "To rent" includes to lease, to sublease, to let or otherwise to grant for consideration the right to occupy the premises not owned by the occupant.

(4) "Discriminatory housing practice" includes: (A) practices prohibited by 2.21.030(10) of the B.M.C., (B) refusing to rent to an individual or family on the basis of familial status, (C) refusing to allow a tenant with a disability, as defined by B.M.C. 2.21.030(15), to make reasonable modifications of the rented premises at the tenant's expense if such modifications are necessary to afford the tenant full enjoyment of the premises. The landlord may, where it is reasonable to do so, condition permission for the modification(s) on the tenant's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord may require the tenant to acquire any necessary permits and to perform the modifications in a workmanlike standard. (D) Refusing to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a tenant with a disability, as that term is defined by B.M.C. 2.21.030(15), equal opportunity to use and enjoy a dwelling.

SECTION 9. Section, 2.21.097, Housing discrimination - exemptions, shall be added to the chapter and shall read as follows:

2.21.095 Housing discrimination - exemptions . This section applies only to cases alleging housing discrimination.

(a) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(b) Nothing in this section shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons. Nor shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(c) Nothing in this section limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(d) Nothing in this ordinance regarding familial status apply with respect to housing for older persons, as defined below. As used in this section, "housing for older persons" means housing:

(1) provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development designed and operated to assist elderly persons (as defined in the state or federal program); or

(2) intended for; and solely occupied by, persons 62 years of age or older; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per unit if the following requirements are met: (A) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and (B) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and (C) the publication of and adherence to, policies and procedures which demonstrate an intent by the owner or

manager to provide housing for persons 55 years of age or older.

(e) Nothing in this section applies to the following:

(1) The sale or rental of a single-family house sold or rented by an owner if: (A) The owner does not (i) own more than three single-family houses at any one time; or (ii) own any interest in, nor is there owned or reserved on the owner's behalf, under any express or voluntary agreement, title to, or any right to any part of the proceeds from the sale or rental of more than three single-family houses at any one time; and (B) The house was sold or rented without the use of the sales or rental facilities or services of a real estate broker, agent or salesperson licensed under state law.

(2) The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the living quarters as the owner's residence.

SECTION 10. Section 2.21.140, Hate crime statistics, shall be amended to replace the word "handicap" with "disability" wherever it appears in that section.

SECTION 11. Severability. If any section, sentence, or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 17th day of June, 1998.

TIMOTHY MAYER, President
Bloomington Common Council

ATTEST:

PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 18th day of June, 1998.

PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 18 day of June, 1998.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance brings the Bloomington Human Rights Ordinance into compliance with the Indiana Civil Rights Law. It replaces the outdated terms "handicap" and "handicapped person" with "disability" and "person with a disability." It extends the statute of limitations for filing a discrimination complaint from 90 days to 180 days. It forbids covered landlords to discriminate on the basis of familial status, and it requires covered landlords to allow tenants with disabilities to modify the rented premises at the tenant's expense. This ordinance imposes no new burdens on employers or landlords and bestows no new rights on employees or tenants. It simply gives the local Bloomington Human Rights Commission many of the same enforcement powers currently held by the Indiana Civil Rights Commission.

Signed copies to:
Legal Dept 5
Human Rights Comm.
CA/CA
Clerk
BMC File