

ORDINANCE NO. 78-25

AN ORDINANCE AMENDING CHAPTER 2.60 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED, "HUMAN RIGHTS COMMISSION"

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

SECTION 1. Sub-section 2.60.010(a) of the Bloomington Municipal Code is hereby amended to read as follows:

2.60.010 Public Policy and Purpose. (a) 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 to eliminate segregation or separation based on race, religion, color, sex, national origin or ancestry, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property are hereby declared to be civil rights.

SECTION 2. Sub-section 2.60.010(b) of the Bloomington Municipal Code is hereby amended to read as follows:

(b) The practice of denying these rights to persons because of race, religion, color, sex, national origin or ancestry is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of the City of Bloomington, and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, national origin or ancestry is the purpose of this chapter.

SECTION 3. Sub-section 2.60.010(d) of the Bloomington Municipal Code is hereby amended to read as follows:

(d) It is hereby declared to be contrary to the public policy of the City of Bloomington and an unlawful practice to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry into the neighborhood of a person or persons of a particular race, religion, color, sex, national origin or ancestry.

SECTION 4. Sub-section 2.60.020(h) of the Bloomington Municipal Code is hereby amended to read as follows:

(h) "Discriminatory practice" means the exclusion of a person by another person from equal opportunities because of race, religion, color, sex, national origin or ancestry or a system which excludes persons from equal opportunities because of race, religion, color, sex, national origin or ancestry; or the promotion or assistance of segregation or separation in any manner on the basis of the above categories; provided, it shall not be a discriminatory practice for an employment agency to refer for employment any individual, or for a joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in such program on the basis

of his religion, sex or national origin in those particular instances where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; further provided, that it shall not be a discriminatory practice for a person to refuse to rent for occupancy as living quarters any space in an owner occupied-multiple dwelling structure on the basis of sex.

SECTION 5. Sub-section 2.60.020(i) of the Bloomington Municipal Code is hereby amended to read as follows:

(i) "Educational Institution" includes all public and private schools and training centers; except that the term "educational institution" does not include any state agency as defined in sub-section (v) of this section.

SECTION 6. Sub-section 2.60.020(k) of the Bloomington Municipal Code is hereby amended to read as follows:

(k) "Employer" includes the city or any department thereof and any person employing six or more employees within the city; except that the term "employer" does not include any not-for-profit corporation or association organized exclusively for fraternal or religious purposes, nor any school, educational or charitable religious institution owned or conducted by, or affiliated with, a church or religious institution, nor any exclusively social club, corporation or association that is not organized for profit, nor any state agency as defined in sub-section (v) of this section.

SECTION 7. Sub-section 2.60.020(o) of the Bloomington Municipal Code is hereby amended to read as follows:

(o) "Person" includes the City of Bloomington, one or more individuals, partnerships, associations, organizations, labor organizations, corporations, cooperatives, legal representatives, trustees in bankruptcy, trustees, receivers, any subdivisions of the state, and other organized groups of persons.

SECTION 8. Sub-section 2.60.020(r) of the Bloomington Municipal Code is hereby amended to read as follows:

(r) "Sex" as it is applied to segregation or separation in this chapter shall apply to all types of employment, education, public accommodations, and housing; provided, that it shall not be a discriminatory practice to maintain separate rest rooms or dressing rooms; and that it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for any employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any such program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and that it shall not be a discriminatory practice for a private or religious educational institution to continue to maintain and enforce a policy of admitting students of one sex only.

SECTION 9. Sub-section 2.60.020(v) of the Bloomington Municipal Code is hereby repealed and reenacted to read as follows:

(v) "State agency" means every office, officer, board, commission, department, division, bureau, committee, fund, agency, and without limitation by reason of any enumeration herein, every other instrumentality of the state of Indiana, every hospital, every penal institution and every other institutional enterprise and activity of the state of Indiana, wherever located; the universities supported in whole or in part by state funds; and the judicial department of the state of Indiana. "State agency" does not mean counties, county departments of public welfare, cities, towns, townships, school cities, school towns, school townships, school districts or other municipal corporations, political subdivisions, or units of local government.

SECTION 10. Sub-section 2.60.020(w) of the Bloomington Municipal Code is hereby repealed and reenacted to read as follows:

(w) "Compensation" and "compensatory damages" mean actual damages, except that damages to be paid as a result of discriminatory practices relating to employment shall be limited to lost wages, salaries, commissions or fringe benefits.

SECTION 11. Sub-section 2.60.030(b) of the Bloomington, Municipal Code is hereby amended to read as follows:

(b) If a member dies, resigns, or is removed, his successor shall be appointed by the Mayor if the mayor appointed him, or the common council if the council appointed him, to serve the unexpired period of the term to which his predecessor had been appointed. The mayor may remove commission members appointed by him for cause but not without reason, and the common council may remove commission members appointed by it for cause but not without reason. "Cause" shall include, but not be limited to, failure to attend three consecutive regularly scheduled meetings of the commission or four regularly scheduled meetings of the commission in any twelve month period. Provided that any commissioner may submit in writing to the mayor if the mayor appointed him, or the common council if the council appointed him, any extenuating circumstances. Such written submission must be made before the formal decision to remove is reached. Acceptance of extenuating factors by the appointing official or body puts the commissioner on notice that further excessive absenteeism will result in removal. Any commissioner who has an interest, direct or indirect, shall be disqualified from participation in any case under investigation.

SECTION 12. Sub-section 2.60.040(e) of the Bloomington Municipal Code is hereby amended to read as follows:

(e) To initiate or receive charges of discriminatory practices or complaints, except that no commissioner who initiates a complaint may participate as a member of the agency in the hearing or disposition of the complaint. Upon the request of the complainant, the commission or staff shall aid the complainant in drafting the complaint. To be acceptable to the commission, a complaint shall be sufficiently complete so as to reflect properly the name and address of the complainant; the name and address of the respondent against whom the complaint is made; the alleged discriminatory practice and a statement of particulars thereof; the date or dates and places of the alleged

discriminatory practice; if it is of a continuing nature, the dates between which said continuing acts of discrimination are alleged to have occurred; and a statement as to any other action, civil or criminal, instituted in any other form based upon the same grievance as is alleged in the complaint, together with a statement as to the status or disposition of such other action. No complaint shall be valid unless filed within ninety (90) days from the occurrence of the alleged discriminatory practice, or from the date of the termination of a published and meaningful grievance procedure provided by a respondent employer or labor union. Provided that complaints filed only with the Equal Employment Opportunity Commission shall be deemed to have been filed simultaneously with the Commission for purposes of measuring the ninety (90) day limitation, as long as the complaint is otherwise within the Commission's jurisdiction. Provided further that any person who files a complaint with the Indiana Civil Rights Commission shall have no recourse to the Bloomington Human Rights Commission concerning any of the matters alleged in such complaint. Provided further that the Commission shall have no jurisdiction over the state or any of its agencies.

SECTION 13. Sub-section 2.60.040(k)(1) of the Bloomington Municipal Code is hereby amended to read as follows:

(k)(1) To state its findings of fact after hearing, which statement shall be made in a written opinion containing both the findings of fact and the principles of law applied. All written opinions shall be compiled and maintained as public record, and in making decisions the Commission shall give due consideration to its prior decisions which may be applicable. If a majority of the Commissioners who hear the case finds that a person has engaged in unlawful discriminatory practice, the Commission shall cause to be served on the person an order requiring the person to cease and desist from the unlawful discriminatory practice and requiring such person to take further affirmative action necessary to effectuate the purposes of this ordinance.

SECTION 14. Sub-section 2.60.050(a) of the Bloomington Municipal Code is hereby amended to read as follows:

(a) All contractors doing business with the City of Bloomington, except those specifically exempted by regulations promulgated by the Human Rights Commission and approved by the Common Council shall take affirmative action to insure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon religion, race, color, sex, national origin or ancestry. Affirmative action shall include but not be limited to the issuance of a statement of policy regarding equal employment opportunity and its communication to all personnel involved in recruitment, hiring, training, assignment and promotion; notification of all employment sources of company policy and active efforts to review the qualifications of all applicants regardless of race, religion, color, sex, national origin or ancestry; recruiting in the minority group community for employees; and establishing an internal system of reporting concerning equal employment, recruiting, hiring, training, upgrading and the like.

SECTION 15. Sub-section 2.60.060 of the Bloomington Municipal Code is hereby amended to read as follows:

2.60.060 Educational program. In order to eliminate prejudice among the various groups in the city and to further good will among such groups, the commission may prepare educational programs designed to emphasize and remedy the denial of equal opportunity because of a person's race, religion, color, sex, national origin or ancestry, its harmful effects, and its incompatibility with the principles of equality.

SECTION 16. Severability. If any section, sentence or provision of this Ordinance, or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not effect 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 chapter are declared to be severable.

SECTION 17. This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Indiana, upon this 18 day of May, 1978.

John F. Richardson  
John F. Richardson, President  
Bloomington Common Council

ATTEST:

Karel Dolnick  
Karel Dolnick, City Clerk

Presented by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 19 day of May, 1978,

Nora M. Connors  
Nora M. Connors, Deputy City Clerk

SIGNED and APPROVED by me upon this 19 day of May, 1978.

Francis X. McCloskey  
Francis X. McCloskey, Mayor  
City of Bloomington, Indiana

SYNOPSIS

ORDINANCE 78-25

This ordinance amends Bloomington Municipal Code Chapter 2.60, Human Rights Commission, to conform to the requirements of the newly enacted state authorizing statute, IC 22-9-1-12.1. All references to and regulations concerning the protected categories of age, marital status and sexual orientation have been removed. Some limiting language taken from various sections of IC 22-9-1 has been added to §2.60.020, Definitions, and to §2.60.040(e), Powers and Duties, to prevent conflict with the state statute. In addition, two new provisions have been added relating to administrative matters: absenteeism is designated as cause for removal of a commissioner, and decisions of the commission are required to be in writing, compiled as a public record, and referred to by the commission in making subsequent decisions.

I HEREBY MOVE THAT ORDINANCE # 98-25

BE INTRODUCED AND READ FOR FIRST READING BY TITLE

ONLY AT THE COUNCIL MEETING HELD ON 4/20/98

John F. Richardson  
(Signature)