

HUMAN RIGHTS ORDINANCE NO. 72-15

As authorized by the General Assembly of the State of Indiana, IC 1971, 22-9-1-12, the Common Council of the City of Bloomington, Indiana enacts the following ordinance creating a Human Rights Commission and extending to all the residents of the City of Bloomington, Indiana equal opportunity for education, employment, access to public accommodations and conveniences and acquisition through purchase or rental of real property.

SECTION 1. Public Policy and Purpose

- a. It is the public policy of the City of Bloomington to provide all of its citizens equal opportunity for education, employment, access to public conveniences, and 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.
- 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 ordinance.
- c. It is also the public policy of this City of Bloomington to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders and lending institutions from unfounded charges of discrimination.
- d. It is hereby declared to be contrary to the public policy of

the City of Bloomington and an unlawful practice for any person, for profit, 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.

e. This Act shall be construed broadly to effectuate its purposes.

SECTION 2. Definitions

As used in this ordinance unless the context clearly requires otherwise:

- a. The term "acquisition of real estate" means the sale, rental, lease, sublease, construction or financing, including negotiations and any other activities or procedures incident thereto, of (1) any building structure, apartment, single room, or suite of rooms or other portion of a building, occupied as or designed or intended for occupancy as living quarters or (2) any building, structure, or portion thereof, or any improved or unimproved land utilized, or designed or intended for utilization, for business, commercial, industrial or agricultural purposes; or (3) any vacant or unimproved land offered for sale or lease for any purpose whatsoever.
- b. The term "commission" means the Human Rights Commission hereinafter created.
- c. The term "commission attorney" shall mean the City Attorney, or such assistants of the City Attorney as may be assigned to the Commission, or such other attorney as may be engaged by the Commission or voluntarily lend his services to the Commission.
- d. The term "complainant" means any individual charging on his own behalf to have been personally aggrieved by a discriminatory practice or the director or a commissioner to the Bloomington Human Rights Commission charging that a discriminatory practice was committed against a person, other than himself, or a class of people in order to vindicate the public policy of the State of Indiana as defined in Section 2, IC 1971, 22-9-1, and the public policy of the City of Bloomington as defined in Section 1

of this ordinance.

- e. The term "Complaint" means any written grievance filed by a complainant with the Commission. The original shall be signed and verified before a Notary Public or another person duly authorized by law to administer oaths and take acknowledgements. Notarial service shall be furnished by the Commission without charge.
- f. The term "consent agreement" shall mean a formal agreement entered into in lieu of adjudication.
- g. The term "director" shall mean the director of the Human Rights Commission.
- h. The term "discriminatory practice" shall mean the exclusion of a person by an individual from equal opportunities because of religion, color, sex, national origin or ancestry; or a system which excludes persons from equal opportunities because of religion, color, sex, national origin or ancestry or the promotion of segregation or separation in any manner on the basis of the above categories.
- i. The term "educational institution" includes all public and private schools and training centers.
- j. The term "employee" includes any person employed by another for wages or salary; provided, however, that it should not include any individual employed by his parents, spouse or child.
- k. The term "employer: includes the City or any department thereof and any person employing six (6) or more employees within the City.
- l. The term "employment agency" includes any person undertaking with or without compensation to procure, recruit, refer, or place employees.
- m. The term "labor organization: includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for mutual aid or protection in relation to employment.
- n. The term "lending institution" means any bank, building and

- loan association, insurance company, or other corporation, association, firm or enterprise whose business consists in whole or in part in making or guaranteeing loans secured by real estate or an interest therein.
- o. The term "person" includes the State of Indiana, the City of Bloomington, one or more individuals, partnerships, associations, organizations, labor organizations, corporations, legal representatives, trustees in bankruptcy, trustees, reviewers, any subdivisions of the State, and other organized groups of persons.
 - p. The term "public accomodation" means any establishment which offers its services, facilities, or goods to the general public.
 - q. The term "respondent" means one or more persons against whom a complaint is filed under this ordinance, and who the complaint alleges has committed or is committing a discriminatory practice.
 - r. The term "sex" as it is applied to segregation or separation in this ordinance shall apply to all types of employment, education, public accomodations, and housing; provided, however, that (1) it shall not be a discriminatory practice to maintain separate rest rooms or dressing rooms; and that (2) 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, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program on the basis of sex as a bonafide occupational requirement reasonably necessary to the normal operation of that particular business or enterprise.
 - s. The term "affirmative action" shall mean those acts which the Commission deems necessary to assure compliance with the City Human Rights Ordinance.

SECTION 3. Commission Created - Membership - Terms

- a. There is hereby created a Human Rights Commission composed of twelve (12) members representative of the community. Three (3)

shall be appointed by the Mayor with the advice and consent of the Common Council within sixty (60) days from the date of passage of this ordinance. The nine (9) members previously appointed shall continue their terms for the duration of their appointments. Thereafter each appointment shall be made by the Mayor with the advice and consent of the Common Council for a term of three (3) years. The Commission may adopt rules for the expulsion of their members for failure to attend meetings.

- b. If a member dies, resigns, or is expelled by the Commission, his successor shall be appointed by the Mayor to serve the unexpired period of the term to which his predecessor had been appointed. The Mayor may remove Commission members for cause but not without reason. Any Commissioner who has an interest, direct or indirect, shall be disqualified from participation in any case under investigation.
- c. The Commission shall elect from its membership at its first meeting and thereafter at its April meeting annually a Chairman, Vice-Chairman, and the Secretary. The first meeting of the Commission shall be held within thirty (30) days after its appointment. A quorum shall be present at all meetings in order for the Commission to conduct business.

SECTION 4. Powers and Duties

The Commission shall have the following powers and duties:

- a. To establish and maintain a permanent office in the City of Bloomington, when the Common Council has appropriated funds for such an office.
- b. To appoint an executive director, attorneys, staff, or other agents, as it may deem necessary and to fix the compensation for these employees when the Common Council has appropriated funds for such positions.
- c. To create subcommittees and advisory committees as in its judgment will aid in effectuating the purpose of the ordinance.
- d. To issue such publications and such results of investigation and research as in its judgment will tend to minimize or eliminate discrimination because of race, religion, color, sex, national origin or ancestry.

- e. To initiate or receive charges of discriminatory practices or complaints. 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.
- f. To receive and investigate charges of discriminatory practices or complaints. All investigations of complaints shall be conducted by the Commissioners or staff members of the Bloomington Human Rights Commission or their agents. Where said investigating staff member or agent finds facts sufficient to support a finding of probable cause, said finding shall be made and the case then referred to the Commission for public hearing; provided, however, that subsequent to the setting of the case for public hearing and prior to said hearing, the Commissioner or staff shall make reasonable effort to conciliate all issues raised during the investigation of the case. When the recommendation after investigation is no probable cause, the Complainant shall be furnished with a copy of

the findings of fact and recommendations and shall be given ten (10) days to make written request, with the reasons therefor, to the Commission for review of the finding. Upon the receipt of the request for review the Chairman of the Commission shall appoint a hearing Commissioner who will review the Complainant's request and whose decision will be binding and final upon adoption by a majority of the Commission. Whenever such hearing Commissioner is named for the purpose of reviewing a request for the reconsideration by a Complainant, said Commissioner shall be disqualified from any further participation in the case in question. When a complaint is filed with the Commission and it has no professional staff, the Chairman shall designate on a rotating basis an investigating Commissioner who shall investigate the complaint and attempt conciliation. Any Commissioner involved in an investigation or attempt at conciliation of a complaint shall be disqualified from being a hearing Commissioner on that complaint or participating in the final decision except as a witness at a public hearing on the complaint. If the investigating Commissioner shall find no probable cause to credit the allegations, a written statement of the findings of fact and decision shall be sent to the Complainant and Respondent. The finding of no probable cause shall state the reasons the allegations in the complaint are deemed insufficient. Either party shall have ten (10) days from receipt thereof to submit a written request to the Commission for a review of the decision with the reasons therefor. When the Chairman receives such a request for review, he shall appoint a Commissioner to review the findings of fact made by the investigating Commissioner and any additional evidence subsequently available. If the reviewing Commissioner shall reach the same decision as the investigating Commissioner, the decision shall be final upon adoption by a majority of the Commissioners.

If the two Commissioners differ in their conclusions and the matter is not conciliated, the complaint shall be set for public hearing before the other members of the Commission.

- g. To prevent any person from discharging, expelling, or otherwise discriminating against any other person because he filed a complaint or testified in any hearing before this commission or in any way assisted the Commission in any matter under its investigation.
- h. To issue a temporary emergency order against any person requiring such person to do an act preserving the possibility of a remedy for a complaint or to refrain from doing an act damaging the possibility of a remedy during the investigation of the complaint; Provided, however;
1. That no emergency order shall be issued unless a time and place for hearing on the temporary order is designated in the order;
 2. That the hearing on the temporary emergency order shall be held within fifteen (15) days following the issuance of the temporary order, unless continued by the Commission at the request of the Respondent. At such hearing the Complainant shall show that a failure to continue the temporary order would damage Complainant's remedy. The Commission shall thereupon weigh the comparative hardship to Complainant and Respondent and issue a decision continuing or terminating the temporary emergency order, pending final disposition of the complaint. The Respondent may waive said hearing without prejudice to his defense of the matters charged in the complaint, in which case the temporary order shall remain in effect pending final disposition of the complaint.
 3. The Commission may by rule provide for issuance of its temporary order a majority of two of any three members of the Commission, and it may compel compliance with any such temporary order by bringing in any Circuit

or Superior Court for prohibitory or mandatory injunction upon showing that such person is subject to the Court's jurisdiction, resides or transacts business within the county in which the proceeding is brought, and that such injunction is necessary to protect the Complainant's rights under this ordinance until his complaint is resolved through conciliation or public hearing.

- i. To reduce the terms of conciliation agreed to by the parties to writing to be called a consent agreement which the parties and a majority of the Commissioners shall sign. When so signed, the consent agreement shall have the same effect as a cease and desist order pursuant to subsection (k) below. If the Commission determines that a party to the consent agreement is not complying with it, the Commission may obtain enforcement of the consent agreement in a Circuit or Superior Court upon showing that the party is not complying with the consent agreement, and the party is subject to the Commission's jurisdiction, and resides or transacts business within the county in which the petition for enforcement is brought.
- j. To hold hearings, subpoena witnesses, compel their attendance, administer oaths, take testimony of any person under oath and require the production for examination of all books and papers relating to any matter under investigation or in question before the Commission. The Commission may make rules governing the issuance of subpoenas by individual Commissioners. Contumacy or refusal to obey a subpoena or temporary emergency order issued pursuant to this section shall be a breach of this ordinance, and such person shall be liable to a penalty therefor, if adjudged by the City Court of Bloomington, of the payment of a penalty not to exceed Three Hundred Dollars (\$300.00). Each penalty shall be deposited in the General Fund of the City of

Bloomington. Provided, however, that the payment of such a penalty by a party shall not impair the Commission's ability to grant affirmative relief and compensatory damages to the Complainant, should justice so require.

- k.(1) To State its findings of fact after hearing and, 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.
- (2) If unlawful discrimination is found in the area of employment, an order shall be issued requiring the Respondent to take such affirmative action including, but not limited to hiring, reinstatement, and upgrading of employees or people deprived of employment, with or without compensatory damages to which the Complainants would have been entitled had they not been deprived of equal opportunity.
- (3) If unlawful discrimination is found in the area of housing or acquisition of real property, an order may be issued requiring a Respondent to take affirmative action, including but not limited to renting, selling or leasing to a person deprived of equal opportunity. Compensation for the denial of equal opportunity shall be allowed within the discretion of the Commission.
- (4) If unlawful discrimination is found in the area of public accommodations, an order shall be issued requiring Respondent to take affirmative action, including but not limited to providing services, goods, or access to property, reinstatement to membership, reinstatement to membership, posting of notice that a facility is a public accommodation, with or without compensatory damages for Complainant's being denied equal opportunity.

- (5) If unlawful discrimination is found in the area of education, an order may be issued requiring a Respondent to take affirmative action including but not limited to a review and revision of school boundaries, revision of teaching aids, and materials, human relations training for personnel, recruitment of minority people for professional staff, with or without compensatory damages to which the complainant would have been entitled except for the denial of equal opportunity.
- (6) If, upon all the evidence, the Commission shall find that a person has not engaged in any such unlawful practice or violation of this ordinance, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such person.
- 1. Judicial review of such cease and desist order, or other final order, or other affirmative action or damages as referred to in this ordinance may be obtained by filing in the Monroe County Circuit or Superior Courts. The scope of review shall be in accordance with the provisions set out in IC 1971, 4-22-1. If no proceeding to obtain judicial review is instituted within fifteen (15) days from the receipt of notice by a person that such order has been made by the Commission, the Commission, if it determines that the person upon whom the cease and desist order has been served is not complying or is making no effort to comply, may obtain a decree of a court for the enforcement of such order in Circuit or Superior Court upon showing that such person is subject to the Commission's jurisdiction and resides or transacts business within the County in which the petition for enforcement is brought, or may request the City Attorney, Commission Attorney, or attorney representing the complainant to seek enforcement.

SECTION 5. Affirmative action by City Contractors

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 the issuance of a statement of policy regarding equal employment opportunity and its communication to all personnel involved to 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.

- b. Each such contractor shall submit to the Human Rights Commission a written proposal concerning the affirmative action it proposes to take, which proposal must be approved prior to its entering a contract with the City. Said proposal shall be limited to measures similar to those which the City is required to take in its affirmative action with regard to its own employees, as established by the Mayor's office and as specified by resolution of the Common Council.
- c. All contracting agencies of the City of Bloomington or any department thereof shall include in all contracts hereafter negotiated or renegotiated by them a provision obligating the contractor to 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 race, religion, color, sex, national origin or ancestry.

d. Such contracts shall provide further that breach of the obligation to take affirmative action shall be a material breach of the contract for which the City shall be entitled, at its option:

- (1) To cancel, terminate, or suspend the contract in whole or in part;
- (2) To declare the contractor or vendor ineligible for further City contracts;
- (3) To recover liquidated damages of a specified sum.

SECTION 6. 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 7. Rules and Regulations

- a. The Commission may adopt rules and regulations, both procedural and substantive, to effectuate the purposes of this ordinance and to make more specific the procedures deemed necessary for orderly and equitable compliance with this ordinance.
- b. New rules, regulations, and guidelines may be adopted by the Commission after a public hearing by a majority vote of the Commission.
- c. The rules, regulations, and guidelines of the Commission shall be available to the public at the office of the Commission.

SECTION 8. Construction of the Act and the Rules and Regulations

This ordinance and any rules or regulations promulgated pursuant to this ordinance shall be liberally construed to accomplish the purpose of this ordinance and the policies of the Commission.

SECTION 9. The local Commission may enter into a working relationship with the Indiana Civil Rights Commission to perpetuate the mutual objectives set forth in this ordinance and the Indiana Civil Rights Law.

SECTION 10. Severability

The provisions of this ordinance are severable and if any provision, sentence, clause, section, or part thereof is held illegal or invalid, its unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid, or unconstitutional provisions, sentences, clauses, sections, or parts had not been included therein.

SECTION 11. Repeal of Prior Ordinances

Upon its passage and adoption this ordinance repeals ordinances 65-2, 68-15, and 70-37.

SECTION 12. Effective Date

This ordinance shall be in full force and effect from and after its passage, promulgation, and publication in accordance with the law.

Passed and adopted by the Common Council of the City of Bloomington on the 11th day of May, 1972.

Charlotte T. Zietlow
Charlotte T. Zietlow,
Common Council President

ATTEST:

Grace E. Johnson
Grace E. Johnson, City Clerk

Presented by me to the Mayor of the City of Bloomington, upon the 17th day of May, 1972, at the hour of 1:00 o'clock P.m.

Grace E. Johnson
Grace E. Johnson, City Clerk

This ordinance approved and signed by me upon the 18 day of May, 1972, at the hour of 10⁰⁰ o'clock a.m.

Francis X. McCloskey
Francis X. McCloskey, Mayor

ATTEST:

Grace E. Johnson
Grace E. Johnson, City Clerk

INTRODUCED BY:

REFERRED TO COUNCIL COMMITTEE:

APPROVED AS TO LEGALITY:
