

ORDINANCE No. 72-73

An Ordinance to Amend Human Rights Ordinance
No. 72-15 of the Municipal Code of Bloomington,
Indiana

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WHEREAS the Bloomington Human Rights Commission may achieve most expeditious and just enforcement of the public policy of the City of Bloomington, Indiana as expressed in Ordinance No. 72-15, if such Ordinance is not only clerically perfect, but also internally consistent in its procedure, and in line with established civil rights legislation and the Indiana Rules of Civil Procedure;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA:

That section 2(d) of Ordinance No. 72-15 of the Municipal Code be amended to read as follows:

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.

That section 2(h) of Ordinance No. 72-15 of the Municipal Code be amended to read as follows;

(h) The term "discriminatory practice" shall mean the exclusion of a person by an individual 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 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.

That section 2 (j) of Ordinance No. 72-15 of the Municipal Code be amended to read as follows;

(j) The term "employee" includes any person employed by another for wages or salary; provided that it shall not include any individual employed by his parents, spouse or child.

That section 2(k) of Ordinance No. 72-15 of the Municipal Code be amended to read as follows;

(k) The term "employer" includes the City or any department thereof and any person employing six (6) or more employees within the City.

That section 2 (m) of Ordinance No. 72-15 of the Municipal Code be amended to read as follows;

(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.

That section 2 (r) of Ordinance No. 72-15 of the Municipal Code be amended to read as follows;

(r) The term "sex" as it is applied to segregation or separation in this ordinance 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.

That section 4(e) of Ordinance No. 72-15 of the Municipal Code be amended to read as follows;

(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. Provided that complaints filed only with the Equal Employment Opportunity Commission or only with the Indiana Civil Rights Commission or only with both, 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.

That section 4(f) of Ordinance No. 72-15 of the Municipal Code be amended to read as follows;

(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 the 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 shall appoint a 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 Commissioner is named for the purpose of reviewing a request for reconsideration by the Complainant, said Commissioner shall be disqualified from any further participation in that case, except as a witness at a public hearing on the complaint. 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 a investigation or attempt at conciliation of a complaint shall be disqualified from being a Commissioner who hears a Complainant's request for review 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 findings of no probable cause shall state the reasons the allegations in the complaint are deemed insufficient, and shall be adopted by a majority vote of the Commissioners who are qualified to participate in the decision. 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 which is 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 vote of the Commissioners who are qualified to participate in the final decision. If the two Commissioners differ in their conclusions the complaint shall be set for public hearing before the other members of the Commission and such public hearing shall be held if the matters are not conciliated.

That section 4(h)(2) of Ordinance No. 72-15 of the Municipal Code be amended to read as follows:

2. That the hearing on the temporary emergency order shall be held within ten (10) 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 his 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.

That section 5(a) of Ordinance No. 72-15 of the Municipal Code be 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.

That this ordinance shall be in full force and effect from and after its passage and promulgation in accordance with law.

Passed and adopted by the Common Council of the City of
Bloomington, Indiana, on the 2 day of November 1972.

Charlotte T. Zietlow
(Charlotte T. Zietlow, President
of Common Council)

ATTEST:

Grace E. Johnson
Grace E. Johnson, City Clerk

Presented by me to the Mayor of the City of Bloomington, Indiana
upon the 3 day of November 1972, at the
hour of 9 o'clock A.m.

Grace E. Johnson
Grace E. Johnson, City Clerk

This Ordinance approved and signed by me upon the 3 day of
November 1972, at the hour of 9 o'clock A.m.

Francis X. McCloskey
Francis X. McCloskey, Mayor

INTRODUCED BY:

REFERRED TO COUNCIL COMMITTEE:

APPROVED AS TO LEGALITY:
