

ORDINANCE NO. 70-37

1st Reading 8/6/70
2nd Reading 8/20/70
Adopted 8/30/70
000031

AN ORDINANCE CREATING A HUMAN RIGHTS COMMISSION AND REPEALING ORDINANCES 65-2 AND ORDINANCE 68-15.

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

SECTION 1. CREATION - MEMBERSHIP - TERMS

A. There is hereby created a Human Rights Commission composed of fifteen (15) citizen members serving without compensation, and broadly representative of the racial, ethnic, political, religious, economic and educational groups in the community; the Mayor of the City of Bloomington; and a 16th member who shall be a member of the Common Council chosen by the Common Council of the City of Bloomington. The citizen members 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.

B. Of the fifteen (15) citizen members first appointed, five shall be appointed to serve through the first day of March, 1971, five to serve through the first day of March, 1972, and five to serve through the first day of March, 1973. Subsequent appointments shall be for terms of three years. If a member dies or leaves the Commission for any other reason, his successor shall be appointed to serve for the unexpired period of the term for which the member had been appointed. The Mayor may remove commission members for cause but for no other reason.

C. The Commission shall elect from its membership at its first meeting and thereafter at its April meeting a chairman, vice-chairman and secretary.

D. The Commission shall meet once each month. Special meetings may be called by the chairman of the Commission or the Mayor at any time. In addition, special meetings may be called by a request for such special meetings in writing signed by not less than seven (7) of the citizen members of such Commission, delivered to the chairman of the Commission. Upon the receipt of such a request, the chairman shall call such special meeting to be held not more than seven (7) days after the receipt of such written request. Notice of all special meetings shall be given to each member of the Commission by one of the following methods:

1. Oral notices delivered either personally or by telephone, not less than twenty-four (24) hours before the time of such special meeting.

2. Written notice either personally delivered to the member not less than twenty-four (24) hours before the time of the scheduled meeting or posted in the United States Mails addressed to the residence of such member not less than forty-eight (48) hours before the time of such special meeting.

The first meeting of the Commission shall be held within thirty (30) days after its appointment.

E. The expenses for carrying on the Commission's activities shall be paid out of funds appropriated for such purpose by the Common Council.

SECTION 2. DEFINITIONS

A. The term "person" includes one or more individuals, partnerships, associations, organization, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons.

B. The term "Commission" means the Human Rights Commission hereinafter created.

C. The term "employer" includes the City of Bloomington or any department thereof, and any person employing six (6) or more employees within the City; except that the term "employer" excludes any not for profit corporation or association organized for fraternal or religious purposes, and any school, educational or charitable religious institution owned or conducted by, or affiliated with a church or religious institution in cases where the prospective employee's religion is a bonafide qualification for the job.

D. The term "educational institution" includes all public and private schools and training centers except those affiliated with religious institutions which may give preference to members of their religious group in selecting their students.

E. The term "labor organization" includes any organization which exists for the purpose, in whole or in part, of collective bargaining or dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in relation to employment.

F. The term "employment agency" includes any person who, with or without compensation procures, recruits, refers or places employees.

G. The term "discriminatory practice" includes:

1. The exclusion from, or failure or refusal to extend to a person, equal opportunities in education, employment, housing, public accommodations, and the acquisition of real estate because of race, religion, color, national origin or ancestry;

2. The exclusion from or failure or refusal to extend to any person equal opportunities, or any difference in treatment of any person, because such person filed a complaint alleging a violation of this ordinance, testified in a hearing before the Commission, otherwise cooperated with the Commission in the performance of its duties and functions under this ordinance, or requested assistance from the Commission in connection with any alleged discriminatory practice, whether or not such discriminatory practice would be in violation of this ordinance or because he assisted another person in seeking to exercise his civil rights under the law;

3. In the acquisition of real estate :

a. Any attempt to prevent, dissuade or discourage any prospective purchaser, lessee or tenant of real estate from viewing, buying, leasing, or renting such real estate because of the racial, religious, or ethnic composition of (1) the students, pupils or faculty of any school or school district or (2) owners, occupants, or prospective owners or occupants of real estate in any neighborhood or on any street or block; provided that this clause shall not be construed to prohibit disclosure in response to inquiry by any prospective purchaser, lessee or tenant, of (a) information reasonably believed to be accurate regarding such racial, religious or ethnic composition, or (b) the honest opinion or belief regarding factors which may affect the value or desirability of property available for purchase or lease; or

b. Any solicitation, promotion, or attempt to influence or induce any owner to sell, lease, or list for sale or lease any real estate, which solicitation, promotion or attempted inducement includes representations concerning

(1) the race, color, religion or national origin of present, prospective or possible purchasers or occupants of real estate in any area, neighborhood or particular street or block or

(2) present, prospective or possible neighborhood unrest, tension, or change in the racial, religious or ethnic composition of occupants or prospective occupants or real estate in any neighborhood or on any street or block, or

(3) present, prospective or possible decline in market value of any real estate by reason of the present, prospective or possible entry into any neighborhood, street or block of persons of a particular race, color, religion or national origin, or

(4) present, prospective or possible decline in the quality of education offered in any school or school district by reason of any change in the racial, religious, or ethnic composition of the students, pupils or faculty of such school or district.

Every discriminatory practice relating to the acquisition of real estate, education, public accommodations, or employment shall be considered unlawful unless it is specifically exempted by this ordinance.

H. The term "public accommodation" means any establishment which offers its services or facilities or goods to the general public.

I. The term "complainant" means any person charging on his own behalf to have been aggrieved by discriminatory practices, but this shall not prevent the filing of "Commissioner's complaints" as defined below in subsection "K".

J. The term "complaint" means any written grievance filed by a complainant or the Clerk of the City of Bloomington directly with the Commission. The original shall be signed and verified before a notary public or other person duly authorized by law to administer oaths and take acknowledgements. Notarial service shall be furnished by the Commission without charge. To be acceptable by the Commission a complaint shall be sufficiently complete so as to reflect properly the full name and address of the complainant; the full name and address of the person against whom the complaint is made; the alleged discriminatory practice and a statement of particulars thereof; the date or dates of the alleged discriminatory practice, and if the alleged discriminatory practice is of a continuing nature, the dates between which the continuing discriminatory practices 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 alleged in the complaint, with a statement as to the status or disposition of the other action. No complaint shall be valid unless filed within ninety (90) days from the occurrence of the alleged discriminatory practice.

K. The term "Commissioner's complaint" includes any written grievance filed by one or more Commissioners alleging a

discriminatory practice committed against a person other than himself. To be valid a Commissioner's complaint must meet the requirements set forth for other complaints in subsection "J" above, except that it need not be filed by a complainant as defined in subsection "I" above.

L. The term "owner-occupant" means any individual who is a title holder of record or contract purchaser of the real property in question and who in addition continues to occupy and reside in the property as his or her principal dwelling place at the time of the alleged discriminatory practice.

M. 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.

N. 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 by one or more families or single individuals; 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 agriculture purposes; or (3) any vacant or unimproved land offered for sale or lease for any purpose whatsoever.

O. The term "education" means the construction, maintenance or operation of any school or educational facility utilized or intended to be utilized for the teaching or training of persons residing within the territorial jurisdiction of the Commission and controlled by a public governmental board or agency, or the services which are to be offered to the public.

P. The term "employment" means service performed by an individual for compensation on behalf of an employer, except that such services shall not include:

1. Services performed by an individual who in fact is engaged in an independently established trade, occupation, business or profession and who has been and will continue to be free from direction or control over the manner of performance of such services;
2. Services performed by an agent who received compensation solely upon a commission basis and who controls his own time and efforts; or
3. Services performed by an individual in the employ of his spouse, child or parent.

Q. 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 any interest therein.

SECTION 3. POWERS AND DUTIES

The Commission shall have the following powers and duties:

A. By methods of persuasion and conciliation, to reduce tensions and prevent violence caused by breakdowns in relations between persons of various racial, ethnic, and religious groups.

B. To initiate or receive complaints and make or cause to have made investigations of charges of discriminatory practices as herein defined.

C. To seek conciliation of such complaints, hold hearings, make findings of fact, issue orders, publish its findings of fact and orders, and whenever necessary initiate legal proceedings for the enforcement of its orders all in accordance with the provisions herein.

D. To prevent any person from discharging from employment, expelling or otherwise discriminating against any other person because he filed a complaint or testified in a hearing before the Commission or otherwise cooperated with the Commission in the exercise of its duties.

E. To study and investigate conditions having an adverse effect on intergroup relations, including, but not limited to, alleged violations of federal, state, and local laws heretofore or hereafter enacted prohibiting discrimination as herein defined.

F. To institute and conduct educational and other programs to promote the equal rights and opportunities for all persons regardless of their race, creed, color, national origin, or ancestry.

G. To cooperate with interested citizens and with public and private agencies in the performance of its duties.

H. To gather and distribute information intended to improve human relations and achieve equal opportunity.

I. To create advisory committees as in its judgment will aid in effectuating the purposes of this ordinance.

J. To adopt such rules and regulations as may be necessary to carry out the purposes and provisions of this ordinance subject to the limitations specifically set forth herein.

K. To recommend to the Mayor and the Common Council legislation or amendments to aid in carrying out the purposes of this ordinance.

L. To cooperate with the Indiana Civil Rights Commission whenever possible to effect compliance with state laws.

M. To render from time to time, but not less than once a year, a written report of its activities and recommendations with respect to discriminatory practices, if any, to the Mayor, the Common Council, and the public.

SECTION 4. ENFORCEMENT PROCEDURE

A. A complaint charging a violation of this ordinance, which must be in writing, may be made by any member of the Commission itself, or by a complainant, in any of the following instances:

1. In the case of the acquisition of real estate, against the owner of such real estate, a real estate broker, real estate salesman or agent, lending institution or appraiser;

2. In the case of education, against the governing board of any public school district which operates schools within the territorial limits of the City;

3. In the case of a public accommodation, against the owner or person in charge of any such establishment, or both;

4. In the case of a public facility, against the governmental body which operates or has jurisdiction over such facility;

5. In the case of employment, against any employer, employment agency, or labor organization.

The Commission shall make a proper and full investigation of each complaint of an unlawful discriminatory practice as defined herein. Said investigation shall be initiated within ten (10) days after the complaint is received. The Commission may authorize such an investigation by an individual commissioner or by a committee of the Commission.

B. If the Commission determines after investigation that probably cause exists for the allegations made in the complaint, it shall attempt to resolve the issue as follows:

1. Through conciliation and persuasion the Commission should attempt to cause the termination of the discriminatory practice.

2. In any case of failure to terminate the alleged discriminatory practice charged in the complaint by means of conciliation or persuasion, the Commission may hold a public hearing to determine whether or not a discriminatory practice has been committed. The Commission shall serve by United States certified mail with the return receipt retained by the Commission, or personal service upon the person charged with having been engaged in or engaging in the discriminatory practice hereinafter referred to as the respondent, together with each member of the Commission, a statement of the charges made in the complaint and a notice of the time and place of hearing. The hearing shall be held after the filing of the complaint and not less than fifteen (15) days after the service of the notice upon the person charged with the discriminatory practice. The respondent shall have the right to file an answer to the statement of the charges, to appear at the hearing in person, to be represented by an attorney and to subpoena, to examine and cross-examine witnesses.

3. The Commission and the respondent shall have the power to subpoena witnesses other than the respondent, compel their attendance at such hearing, administer oaths, and take the testimony of any such person under oath. A subpoena shall, upon request of the Commission or the respondent, be issued by the Clerk of the City of Bloomington, Indiana. The failure or refusal of any person to obey such subpoena and to appear and testify 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), provided however, no person shall be compelled to testify against himself.

4. If, upon a preponderance of all the evidence presented, a majority of the Commission finds that the respondent has not engaged in any unlawful discriminatory practice, it shall state its findings of fact and dismiss the complaint. If, upon a preponderance of all the evidence presented, a majority of the Commission finds that the respondent has engaged or is engaging in a discriminatory practice, it shall state its findings of fact and shall order as the facts may warrant, including an order requiring said respondent to cease and desist from the discriminatory practice and requiring the respondent to take such further affirmative action as will effectuate the purposes of this ordinance.

5. If the Commission determines that the respondent has been served with a copy of such order and is not complying with said order, it may do either or both of the following:

a. It may certify the case and the entire record of its proceeding to the City Attorney of the City of Bloomington, Indiana, and the City Attorney shall take appropriate legal action to secure enforcement of the Commission's order.

b. It may file a complaint in the Circuit Court or Superior Court of Monroe County, Indiana, seeking the enforcement of the order of the Commission under the rules governing other actions in civil proceedings, provided, however, that the complainant may file such an enforcement action upon his own behalf.

6. Upon the filing of a complaint by a person claiming to be aggrieved, the Commission in accordance with such procedures as the Commission shall establish by rule, may file a verified petition with copy of such complaint attached in the Monroe Circuit Court or Superior Court of Monroe County seeking appropriate temporary relief or injunction to prevent irreparable harm to the complainant, pending resolution of the complaint by the Commission and the institution and completion of proceedings pursuant to Section 5 of this ordinance.

7. If the Commission determines that any party to a conciliation agreement approved by the Commission has failed or refused to comply with the terms of such agreement, it may file a complaint in the name of the Commission in the Monroe Circuit Court or Superior Court of Monroe County seeking an appropriate decree for enforcement of such agreement.

SECTION 5. PROHIBITED ACTS AND PENALTIES

A. Any discriminatory practice herein described is declared to be a breach of this ordinance and a penalty for such breach may be punished by the Bloomington City Court by a penalty up to three hundred dollars (\$300.00).

B. It is hereby declared a breach of this ordinance for any person to wilfully file a complaint alleging a violation of this ordinance with knowledge that such complaint is false in any material respect and for such act a penalty up to three hundred dollars (\$300.00) may be adjudged by the Bloomington City Court.

SECTION 6. EXEMPTIONS AND LIMITATIONS

A. This ordinance shall not apply to the rental of rooms in a boarding house or rooming house of a single-family residential unit by an owner-occupant.

B. This ordinance shall not apply to any not-for-profit corporation or association organized for fraternal or religious purposes, any school, educational or charitable institution owned or conducted by or affiliated with a church or religious institution or to any exclusively social club, corporation or association that is not organized for profit and is not in fact open to the general public.

SECTION 7. TERRITORIAL LIMITS

This ordinance shall be effective within the territorial limits of the City of Bloomington, Indiana.

SECTION 8. 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 the 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 9. REPEAL OF PRIOR ORDINANCES

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

SECTION 10. 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 20th day of August, 1970.

Richard W. Fee
Richard W. Fee, Council President

ATTEST:

Marian H. Tardy
Marian H. Tardy, City Clerk

Presented by me to the Mayor of the City of Bloomington, upon the 20th day of August, 1970, at the hour of 8:30 o'clock a.m.

Marian H. Tardy
Marian H. Tardy, City Clerk

This ordinance approved and signed by me upon the 21st day of August, 1970, at the hour of 9:00 o'clock a.m.

John H. Hooker, Jr.
John H. Hooker, Jr., Mayor

INTRODUCED BY:

REFERRED TO COUNCIL COMMITTEE:

APPROVED AS TO LEGALITY:

ATTEST:

Marian H. Tardy
Marian H. Tardy, City Clerk