

HUMAN RELATIONS

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January 22, 1996

CHAPTER 22.2

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## HUMAN RELATIONS

## SEC. 1 DECLARATION OF POLICY.

It is the intent of the City of Bloomington in adopting this Article, to secure an end in the City to discrimination, including, but not limited to, discrimination by reason of race, color, sex, religion, age, national origin, marital status, familial status or physical or mental disability unrelated to ability. The protections of this Ordinance are administered by the Bloomington Human Relations Commission. (Ordinance No. 1996-8)

## SEC. 2 ESTABLISHMENT AND GUIDELINES OF THE HUMAN RELATIONS COMMISSION.

There is hereby established a Commission to be referred to and known as the Bloomington Human Relations Commission:

- (a) Organization and Members of the Commission. The following designated persons shall be the members of the Human Relations Commission.
- (1) Chairperson. The Chairperson shall be selected from among the Commissioners by a majority vote of the Commission for a term of two (2) years. The term as Chairperson shall not affect the original appointment term of the Commissioner chosen to serve as Chairperson. The Chairperson shall receive no salary, but may be compensated for expenses incurred in the performance of the Commission duties. The Chairperson shall supervise the activities and duties of the Human Relations Commission and shall preside over all of its meetings in addition to the powers enumerated below. The Chairperson shall participate in all matters and shall vote on all issues before the Commission.
  - (2) Vice-Chairperson. The Vice-Chairperson shall be selected from among the Commissioners by a majority vote of the Commission for a term of two (2) years which shall coincide with the term of the Chairperson. The term as Vice-Chairperson shall not affect the original appointment term of the Commissioner chosen to serve as Vice-Chairperson. The Vice-Chairperson shall receive no salary, but may be compensated for expenses incurred in the performance of the Commission duties. The Vice-Chairperson shall act as Chairperson at meetings and functions of the Commission from which the Chairperson is absent.

- (3) Commissioners. Seven (7) persons, who shall be referred to and known as Human Relations Commissioners, shall be appointed by the Mayor with the advice and consent of the City Council for terms of three (3) years. Commission members may be reappointed at the discretion of the Mayor with the advice and consent of the Council. Commissioners shall receive no salary, but may be compensated for expenses incurred in the performance of Commission duties. The Mayor shall make appointments to the Human Relations Commission which reflect a broad diversity of backgrounds within the community in the areas of race, ethnic groups, sex and age.
- (4) Staff. The following designated persons shall assist the Commission in the execution of its responsibilities:
  - (a) Community Relations Coordinator. The Community Relations Coordinator shall be hired by the Director of Human Resources and shall advise the Commission, serve as a resource person to the Commission, coordinate and develop human relations projects of the Commission and act as a liaison with the City administration. The Community Relations Coordinator shall make reasonable efforts to attend all meetings and functions of the Commission and shall have a voice in all proceedings, but shall not vote on issues before the Commission.
  - (b) Human Relations Associate. The Human Relations Associate shall be hired by the Director of Human Resources and shall investigate discrimination complaints filed with the Commission, as well as individual instances and patterns of conduct that appear to be in violation of this Chapter, and shall assist in the coordination and development of human relations projects of the Commission. The Human Relations Associate shall make reasonable efforts to attend all meetings of the Commission and shall have a voice in complaint related issues, but shall not vote on complaint related issues before the Commission.
  - (c) Legal Representation. The Commission shall be represented by the City's Corporation Counsel Office, or in the case of a conflict of interest, the Commission shall engage the services of a private attorney. (Ordinance No. 1996-8)

(b) Removal. The Chairperson and Commissioners appointed herein may be removed for cause by the City Council. (Ordinance No. 1996-8)

(c) Meetings. The Chairperson of the Human Relations Commission shall call meetings of the Commission on a regular basis, not less than once a month on a schedule to be established and published by the Chairperson as required by law. The Chairperson or any four (4) Commissioners may call additional meetings as may be deemed necessary by giving notice of the time and place of such meetings to all other Commissioners, to the Chairperson, to the news media as required by law and to the Community Relations Coordinator not less than twenty-four (24) hours prior to such meetings. (Ordinance No. 1996-8)

(d) Duties and Authority. It shall be the duty and authority of the Human Relations Commission to:

- (1) Conduct research, publish, and utilize studies in the field of inter-group relations and to develop and implement procedures to educate the community, equalize opportunities, eliminate discrimination and promote good will among all persons;
- (2) Receive and record any complaint whether initiated by the Human Relations Commission or by the filing of a complaint with the Commission, alleging discrimination against any person because of race, color, age, sex, religion, national origin, marital status, familial status or physical or mental disability unrelated to ability in violation of this Chapter;
- (3) Seek to resolve conflicts between persons involved in complaints which are within the jurisdiction of the Commission;
- (4) Recommend to the appropriate agency or person legislative, administrative, legal or other ameliorative action to be taken to eliminate discrimination and foster good will;
- (5) Invite and enlist the cooperation of any citizen, organization or committee which can be of benefit in fulfilling the responsibilities of the Human Relations Commission in carrying out specific programs designed to lessen conflicts and in improving understanding in the community;

- (6) Adopt such bylaws, rules of procedure and regulations as may be deemed necessary to conduct its meetings, conciliation conferences, public hearings and general operations and to carry out the purposes and provisions of this Ordinance;
- (7) The Commission may also cooperate and assist any person who requests such cooperation or assistance for the purpose of developing or maintaining equal employment opportunity programs;
- (8) Prepare and submit annually to the City Council, at or shortly after the end of each fiscal year, a report of its activities during such fiscal year;
- (9) Refer individuals and/or information to other agencies or persons when appropriate. Serve as a resource/liason for information, training, education and outreach efforts. (Ordinance No. 1996-8)

### SEC. 3 DEFINITIONS.

As used herein, unless a different meaning appears clearly from the content, the following words or phrases shall have the meanings provided in this Section:

"Age" as used in this Chapter shall be limited to individuals who are at least forty (40) years of age.

"Aggrieved person" includes any person who: (1) claims to have been injured by a discriminatory practice; or (2) believes that such person will be injured by a discriminatory practice that is about to occur.

"Answer" means a formal certified written response to the allegations in a complaint which shall be filed by the Respondent in the manner and form herein specified in accordance with the established time tables herein specified.

"Commission" means the City of Bloomington Human Relations Commission.

"Complainant" means the Commission, Staff, or an aggrieved person who files a complaint with the Commission alleging a violation of this Chapter.

"Complaint" means a written and signed statement alleging one or more discriminatory acts or practices.

"Conciliation Agreement" means a written agreement setting forth the resolution of the issues in conciliation.

"Conciliation Conference" means a meeting of the parties arranged by the Commission in an attempt to resolve a complaint by a signed agreement of the parties.

"Conciliator" means one or more members of the Commission or any other person authorized by the Commission to conduct a conciliation conference.

"Contractor" means any person who contracts with or proposes to contract with the City to provide goods and/or services in an amount greater than \$5,000.00 for the current fiscal year or who has contracted with the City for a total of \$5,000.00 during the last preceding fiscal year.

"Disability" means: (1) a physical or mental impairment that substantially limits one or more of the major life activities of an individual; (2) record of such an impairment; or (3) being regarded as having such an impairment. Excluded from this definition is an impairment relating to the illegal use, possession or distribution of "controlled substances" as defined in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812).

"Discriminate" means to make a difference in treatment, or favor any person because of race, color, sex, religion, age, national origin, marital status, familial status, sexual orientation, or physical or mental disability unrelated to ability. (Ordinance No. 2002-91)

"Employee" means (1) any individual whether paid or unpaid who performs services under the direction and control of and for any employer; or (2) an applicant for employment.

"Employer" includes any person within the City of Bloomington, including, but not limited to, owners, managers, supervisors and others who serve a supervisory function, who hires or employs any employee whose services are to be partially or wholly performed in the City of Bloomington, but excluding any religious or fraternal corporation, association, society or organization with respect to the hiring or employment of individuals from their membership.

"Employment agency" means any person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer or to recruit, refer or place employees.

"Familial status" means one or more individuals, who have not attained the age of 18 years, being domiciled with a parent or person having legal custody of such individual or individuals; or (1) the designee of such parent or other person having such custody, with the written permission of such parent or other person; or (2) any person who is pregnant or is in the process of securing legal custody of one or more individuals who have not attained the age of 18 years.

"Hearing officer" shall mean one or more members of the Commission or any attorney duly licensed by the State of Illinois who may be designated by the Commission to conduct a Public Hearing.

"Housing accommodations" include all buildings, structures, or any portions thereof, within the City of Bloomington which are used or occupied, or are maintained, arranged or designed to be used or occupied as a home, residence or sleeping place for one (1) or more persons.

"Marital status" means the status of being single, married, divorced, separated or widowed.

"National origin" means the place in which an individual or one of his or her ancestors was born.

"Owner" means any person who holds legal or equitable title to, or owns any beneficial interest in, any real property or who holds legal or equitable title to share of or holds any beneficial interest in, any real estate cooperative which owns any real property, or any person who is acting as the agent, manager or employee of the owner.

"Party" or "parties" means either the Complainant or the Respondent. These terms shall also refer to the Commission when used in the context of a written agreement which is to be or has been signed by the Commission or its authorized representative as the resolution of the allegations contained in a complaint.

"Person" includes one (1) or more individuals, partnerships, associations, organizations, corporations, legal representatives, joint stock companies, mutual companies, trustees, trustees in bankruptcy, receivers, employment agencies, labor unions or union labor organizations and any other incorporated or unincorporated organized group. The term includes, but is not limited to, any real estate owner, lessor, assignor, builder, manager, broker, salesman or agent, any lending institution, the City of Bloomington, any other unit of local government and any department, unit, officer or employee of any of the above.

"Probable cause" means on the basis of all available information there exists a state of facts which leads an objective person to reasonably believe that a violation of this Chapter may have occurred. These facts need not be proved "beyond a reasonable doubt", as in criminal cases, or by "clear and convincing evidence", or by a "preponderance of the evidence" as in civil matters. The Commission is not a court. It functions on an administrative, investigative level. It seeks only reasons to believe that facts exist which establish a violation of local civil rights laws.

"Public accommodation" means all places, businesses or individuals offering goods, services or accommodations to the general public. This paragraph shall not apply to any public school system.

"Public hearing" shall mean an administrative hearing of the allegations in a complaint by the Commission or by an impartial Hearing Officer pursuant to the procedures set forth in this Chapter.

"Religion" includes all aspects of religious observance and practice, as well as belief, except that with respect to employers. "Religion" with respect to employers includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

"Respondent" means any person accused in a complaint of having committed a discriminatory practice or act.

"Response" means an informal written statement by a Respondent or a Respondent's legal representative stating that person's initial position with respect to the allegations contained in a complaint.

"Sexual harassment" (in Employment) means any unwelcome sexual advance, request for sexual favors, or conduct of a sexual nature when: (1) submission to such conduct is an explicit or implicit term or condition of an individual's employment; or (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

"Sexual harassment" (in Housing) means any unwelcome sexual advance, request for sexual favors or conduct of a sexual nature when: (1) submission to such conduct is an explicit or implicit term or condition of an individual's real estate transaction; or (2) submission to or rejection of such conduct by an individual is used as the basis for any decision affecting the individual's real estate transaction; or (3) creating an intimidating, hostile, or offensive environment with respect thereto.

"Sexual harassment" (in Public Accommodation) means any unwelcome sexual advance, request for sexual favors, or conduct of a sexual nature when: (1) submission to such conduct is an explicit or implicit term or condition of an individual's access to, participation in, or full use of a public accommodation; or (2) submission to or rejection of such conduct by an individual is used as the basis for any decision affecting the individual's access to, participation in, or full use of a public accommodation; or (3) such conduct has the purpose or effect of substantially interfering with an individual's access to, participation in, or full use of any public accommodation or creating an intimidating, hostile, or offensive environment with respect thereto.

"Sexual harassment" (in Financing) means any unwelcome sexual advance, request for sexual favors, or conduct of a sexual nature when: (1) submission to such conduct is an explicit or implicit term or condition of any portion of the loan process; or (2) submission to or rejection of such conduct by an individual is used as the basis for any loan decision affecting the individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's access to any part of the loan process, or creating an intimidating, hostile, or offensive environment with respect thereto.

"Sexual Orientation" - The term "sexual orientation" means homosexuality, bisexuality, or heterosexuality, whether the orientation is real or perceived. (Ordinance No. 2002-91)

"Staff" includes the Community Relations Coordinator, the Human Relations Associate, as well as individuals hired in or assigned to the Human Relations Office. (Ordinance No. 1996-8)

#### SEC. 4 EMPLOYMENT.

"Discrimination" as applied under this Section shall mean any differences in treatment based on race, color, sex, religion, age, national origin, marital status, familial status, sexual orientation or physical or mental disability unrelated to ability. (Ordinance No. 2002-91)

(a) Discriminatory Acts. It shall be illegal for any person to commit any of the following acts of discrimination in employment:

- (1) To permit or take action which discriminately affects a person's selection, status or eligibility for employment, promotion or transfer or for apprenticeship or membership or conditions and privileges or benefits directly or indirectly related to one's employment.
  - (2) To cause or permit to be published or circulated, any notice, advertisement, job order, requisition or request for applicants for employment or apprenticeship or for the referral thereof which makes or has the effect of making race, color, religion, sex, age, national origin, marital status, familial status or physical or mental disability unrelated to ability as a condition of applying for employment or of referral therefor or indicates the existence of such a condition except for a bona fide occupational qualification.
  - (3) To refuse to make reasonable accommodations for persons with disabilities in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity in employment. It shall be an affirmative defense to this subsection for the employer to show that such accommodations would constitute an undue hardship upon the employer.
  - (4) For an employer, employment agency or labor organization to inquire on a written application whether a job applicant has ever been arrested or to use such knowledge of an arrest as a reason for denial or termination of employment. This Section shall not be construed to prohibit any employer, employment agency or labor organization from requesting or using information or records concerning the conviction of any individual. (Ordinance No. 1996-8)
- (b) Exemptions.
- (1) It shall not be unlawful practice for any person to develop a bona fide affirmative action plan designed to overcome the effects of past discrimination and to take action not otherwise prohibited by this Chapter or State or Federal law to carry out such affirmative action plan.
  - (2) Nothing in this chapter shall apply to decisions of a religious society, association, organization or institution affecting the definition, promulgation or advancement of the mission, practices, or beliefs of the society, association, organization or institution. (Ordinance No. 2002-91)

SEC. 5 HOUSING.

"Discrimination" as applied under this Section shall mean any differences in treatment based on race, color, sex, religion, age, national origin, marital status, familial status, sexual orientation or physical or mental disability unrelated to ability.

(a) Discriminatory Acts. It shall be illegal for any person to commit any of the following acts of discrimination in housing:

- (1) To directly or indirectly discriminate against any person in any manner in the sale, rental, lease or occupancy of any residential real estate in the City of Bloomington, specifically relating to, but not limited to, the price, terms, conditions or privileges of any kind relating thereto or in the furnishing of any services or facilities in connection therewith including advertisements therefor.
- (2) To refuse to allow, permit or assist any person in the examination of any listing of real estate or real estate otherwise for sale within the City of Bloomington, except for nondiscriminatory reasons applicable to all persons.
- (3) To solicit either orally or in writing or to distribute or cause to be distributed, written material or statements designed to induce any owner of any housing accommodation in the City of Bloomington, to sell or refuse to sell or lease his or her property because of any present or prospective change in the race, color, sex, religion, age, national origin, marital status, familial status or physical or mental disability of persons in the neighborhood.
- (4) To refuse to make reasonable accommodations for persons with disabilities in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity in housing. It shall be an affirmative defense to this subsection for the respondent to show that such accommodations would constitute an undue hardship upon the respondent. (Ordinance No. 1996-8)

(b) Exemptions.

- (1) Owner Occupied. Nothing in this Chapter shall be construed to apply to the rental or leasing of housing accommodations in that portion of a building in which the owner or members of his/her family occupy one of the living units and in which the owner-occupant anticipates the necessity of sharing a kitchen or bathroom with a prospective tenant, not related to the owner-occupant.

- (2) Housing For Older Persons. No provision in this Section regarding familial status shall apply with respect to older persons.
- (a) As used in this Section, "housing for older persons" means housing:
- (i) provided under any State or Federal program that the Secretary of Housing and Urban Development has determined to be specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
  - (ii) intended for and solely occupied by persons 62 years of age or older; or
  - (iii) intended and operated for occupancy by at least one person 55 year of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Commission shall develop regulations which require at least the following:
    - (aa) 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 practical, that such housing is necessary to provide important housing opportunities for older persons; and
    - (bb) that at least 80% of the units are occupied by at least one person 55 years of age or older per unit; and
    - (cc) the publication of, and adherence to, policies and procedure which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
- (b) Housing shall not fail to meet the requirements for housing for older persons by reason of:

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- (i) persons residing in such housing as of the effective date of this Ordinance who do not meet the age requirements of subsections (a)(ii) or (iii); provided, that the new occupants of such housing meet the requirements of subsections (a)(ii) or (iii) of this subsection ; or
  - (ii) unoccupied units; provided, that such units are reserved for occupancy by persons who meet the age requirements of subsections (a)(ii) or (iii) of this subsection.
- (3) Religion. Nothing contained 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 a dwelling which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin.
- (4) Sex. Nothing contained in this Section shall prohibit restricting the rental of rooms in a housing accommodation to persons of one sex where compelling privacy reasons exist. (Ordinance No. 1996-8)
- (5) Nothing in this chapter shall apply to decisions of a religious society, association, organization or institution affecting the definition, promulgation or advancement of the mission, practices, or beliefs of the society, association, organization or institution. (Ordinance No. 2002-91)

## SEC. 6 PUBLIC ACCOMMODATIONS.

"Discrimination" as applied under this Section shall mean any differences in treatment based on race, color, sex, religion, age, national origin, marital status, familial status, sexual orientation or physical or mental disability unrelated to ability.

- (a) Discriminatory Acts. It shall be illegal for any person to commit any of the following acts of discrimination in public accommodations:
  - (1) To discriminate against any person in the full enjoyment of goods, services, facilities, advantages or privileges of any public accommodation.

- (2) To refuse to make reasonable accommodations for persons with disabilities in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity in public accommodations. It shall be an affirmative defense to this subsection for the respondent to show that such accommodations would constitute an undue hardship upon the respondent. (Ordinance No. 1996-8)
- (b) Exemptions.
  - (1) Sex. Nothing contained in this Section shall prohibit restricting the rental of rooms in a housing accommodation to persons of one sex where compelling privacy reasons exist. (Ordinance No. 1996-8)
  - (2) Nothing in this chapter shall apply to decisions of a religious society, association, organization or institution affecting the definition, promulgation or advancement of the mission, practices, or beliefs of the society, association, organization or institution. (Ordinance No. 2002-91)

## SEC. 7 FINANCING.

"Discrimination" as applied under this section shall mean any differences in treatment based on race, color, sex, religion, age, national origin, marital status, familial status, sexual orientation or physical or mental disability unrelated to ability.

- (a) Discriminatory Acts. It shall be illegal for any person to commit any of the following acts of discrimination in financing:
  - (1) To discriminate or to participate directly or indirectly in discrimination in connection with the terms of loans, guaranteeing loans, accepting mortgages or otherwise making available funds for loans, provided that lending money is one of the principal aspects of the person's business or is incidental to the person's principal business.
  - (2) To refuse to make reasonable accommodations for persons with disabilities in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity in financing. It shall be an affirmative defense to this subsection for the respondent to show that such accommodations would constitute an undue hardship upon the respondent. (Ordinance No. 1996-8)

(b) Exemption. Nothing in this chapter shall apply to decisions of a religious society, association, organization or institution affecting the definition, promulgation or advancement of the mission, practices, or beliefs of the society, association, organization or institution. (Ordinance No. 2002-91)

#### SEC. 8 ADDITIONAL CIVIL RIGHTS VIOLATIONS.

(a) Retaliation. It shall be illegal for any person to discriminate or take retaliatory action against any other person because such person has opposed any practice forbidden by this Chapter or because such person has made a charge, filed a complaint, testified or assisted in any manner in any investigation, proceeding or hearing under this Chapter. (Ordinance No. 1996-8)

(b) Aiding and Abetting. It shall be illegal for any person to aid, incite, compel, coerce or participate directly or indirectly in the doing of any act or practice declared in this Chapter to be prohibited. (Ordinance No. 1996-8)

(c) Interference. It shall be unlawful for any person to willfully interfere with the performance of a duty or the exercise of a power by the Commission or one of its members or Staff. (Ordinance No. 1996-8)

#### SEC. 9 JURISDICTIONAL AUTHORITY.

The Human Relations Commission shall have jurisdiction to take the actions authorized herein if the alleged act of unlawful discrimination or practice prohibited herein occurred within the corporate limits of the City of Bloomington, Illinois. For the purposes of this Section, the discriminatory practice shall be deemed to have occurred within the corporate limits of the City of Bloomington if:

- (a) all or part of the employment services in a position held or applied for by a Complainant are to be performed within the City of Bloomington; or
- (b) the housing accommodation sought, occupied, or formerly occupied by Complainant is located within the City of Bloomington; or
- (c) the public accommodation is located within the City of Bloomington; or
- (d) the person allegedly discriminating in financing is located or has a principal office within the City of Bloomington or is offered property within the city as collateral for any loan. (Ordinance No. 1996-8)

## SEC. 10 COMPLAINT RESOLUTION PROCESS.

## (a) Complaint.

## (1) Who May File:

- (a) Any person claiming to be aggrieved by a discriminatory practice or act committed within the limits of the City of Bloomington may file a complaint with the Bloomington Human Relations Commission.
- (b) Staff may investigate individual instances and patterns of conduct which the Commission or Staff feel are in violation of the provisions of this Chapter, and may file complaints in connection therewith.
- (c) The Commission may file a complaint against any person who is alleged to have committed a discriminatory act within the jurisdiction of the Commission. Each complaint filed by the Commission shall be signed by four or more Commissioners.

(2) Dual Filing of Complaint Prohibited. The Commission and Staff shall not process any complaint if a similar complaint is filed before the Illinois Department of Human Rights or the Equal Employment Opportunity Commission or Housing and Urban Development Department. The Commission shall dismiss any complaint filed with it where it is discovered that a similar complaint has been filed with any of the above said agencies.

## (3) Content. A complaint shall contain the following:

- (a) The name, address and telephone number, if any, of the Complainant or if a Commission or Staff complaint, of the Commission or Human Relations Office.
- (b) The full name, address and telephone number of the Respondent, if known; if not known, the complaint shall so state.

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- (c) The alleged discriminatory practice(s) and/or act(s) together with a plain and concise statement of the particulars thereof.
  - (d) The date or dates of the alleged discriminatory practice(s) and/or act(s) and if alleged to be of a continuing nature, the dates between which said continuing practices or acts of discrimination are alleged to have occurred.
- (4) Place of Filing. A complaint shall be filed at the Human Relations Office at the Bloomington City Hall.
  - (5) Time of Filing. A complaint must be filed no later than 180 days after the date of the last alleged occurrence of a discriminatory practice or act or 180 days after the date of discovery of an alleged discriminatory practice or act, whichever is later. The Respondent shall be informed by Staff promptly by certified mail of the filing of a complaint and of the Commission's responsibility to resolve such complaints. A copy of the complaint shall be enclosed with said letter.
  - (6) Withdrawal. Complaints may be voluntarily withdrawn at the request of the Complainant at any time prior to the completion of the Public Hearing. The circumstances accompanying such withdrawal may be fully investigated by the Commission or Staff. (Ordinance No. 1996-8)
- (b) Notification of Formal Complaint. The Respondent shall be informed by Staff promptly by certified mail or by personal service of the filing of such complaints and of the Commission's responsibility to resolve such complaints. A copy of the complaint shall be enclosed with said letter. (Ordinance No. 1996-8)
- (c) Response.
    - (1) Time of Filing. A response shall be filed by the Respondent at the Human Relations Office within fourteen (14) days from the date of service of the complaint or at such later time as the Commission or Staff may allow.
    - (2) Content of Response. The response shall contain the full name, address and telephone number of the Respondent, and if the Respondent is represented by an attorney, the name, address and telephone number of said attorney. The response shall contain specific information stating the Respondent's position with respect to the allegations contained in the complaint.

- (3) Failure to File Response. If no response is filed within the permitted time, it shall be presumed that the complaint is not denied. Failure to file a response shall not operate to delay the proceeding. (Ordinance No. 1996-8)

(d) Party Representation. Both the Complainant and the Respondent may be represented by counsel at any stage of conciliation, investigation or hearing on the complaint. Representatives of parties shall be entitled to the notices specified herein only after they have entered their appearances in a case in writing by mailing or delivering same to the Human Relations Office wherein they identify the party they represent, and state their name and the address and telephone number where they may be contacted and to which all such notices may be mailed or delivered. Evidence that notices were mailed or delivered to such addresses shall be prima facie proof that all such notices were properly served. (Ordinance No. 1996-8)

(e) Investigation Process.

- (1) Investigation. After the filing of a complaint, an investigation of the allegations in the complaint shall be conducted by Staff. The findings of the investigation will be reported to the Commission and the Commission shall determine on the basis of all available information if there is probable cause to believe that the allegations made in the complaint are true or if further investigation is required for its determination.
- (2) Additional Respondents. A person who is not named as a Respondent in a complaint, but who is identified as a Respondent in the course of an investigation, may be joined as an additional or substitute Respondent upon written notice to such person from the Human Relations Office. Such notice shall explain the basis for the belief that the person to whom the notice is addressed is properly joined as a Respondent. This Respondent will be notified per subsection (b) of this Section, and shall be held to the response requirements of subsection (c) of this Section.
- (3) Subpoena Power. The Commission shall issue subpoenas for the appearance of witnesses, the production of evidence, or both, in the course of the investigation. Subpoenas will be issued where necessary for a thorough investigation. A subpoena shall be served in the same manner as subpoenas issued under subsection (i) (5) of this Section.

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- (4) Failure to Cooperate. The Commission may dismiss a complaint or may enter an order of default against a party for failure to cooperate with the investigation.
  - (5) No Prima Facie Case. The Commission may reject without prejudice and without investigation any complaint that fails to set forth sufficient evidence to state a prima facie case of a violation of this Chapter. (Ordinance No. 1996-8)
- (f) Findings.
- (1) Probable Cause. If the Commission determines from the investigation of a complaint that there is probable cause to believe a violation has occurred, the Commission shall direct Staff to give notice to all parties that a probable cause determination has been made by the Commission. This notice shall be mailed to all parties within fourteen (14) days of the Commission's decision or at such other time as may be approved by the Commission.

(a) Basis for Establishing Probable Cause.

"Probable cause" means on the basis of all available information there exists a state of facts which leads an objective person to reasonably believe that a violation of this Chapter may have occurred. These facts need not be proved "beyond a reasonable doubt" as in criminal cases, or by "clear and convincing evidence", or by a "preponderance of the evidence" as in civil matters. The Commission is not a court. It functions on an administrative, investigative level. It seeks only reason to believe that facts exist which establish a violation of this Chapter.

Probable cause is established when one or more of the following eleven (11) factors are uncovered:

- (i) Prima facie evidence uncovered is on its face discriminatory, e.g., notices printed and distributed by the Respondent.

- (ii) The Respondent admits orally or in writing to the investigator, Complainant or witnesses that the action taken was because of the race, color, sex, etc. of the Complainant, class, associate of the Complainant--and the admissions are documented, witnessed, or under the circumstances of the case, the Commission has probable cause to believe the admissions were made.
- (iii) The Respondent violates equal opportunity regulations and ordinances and those guidelines which have the same effect as the law.
- (iv) Disparate treatment, e.g., a comparison between the Complainant of the protected class and similarly situated others of different race, color, sex, religion, etc., depending on what is alleged in the complaint.
- (v) Disparate effect--effect of neutral standards equally applied having a discriminatory impact.
- (vi) A pattern exists of a class being isolated from the other members of the total group or being restricted to certain areas, departments, use of certain facilities, creating a bona fide segregated situation.
- (vii) A discriminatory pattern exists. It has been determined that the pattern was created by and is maintained by specific Respondent policies, practices and procedures. Those practices tend to exclude, channel into a limited or specified area or otherwise deny equal opportunity to a given class.
- (viii) The Respondent violated his/her own policies, rules, regulations, recognized business practices in regard to the Complainant, denying the Complainant an opportunity he or she would otherwise have had, and there are comparisons that can be made of similarly situated others of another class.

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- (ix) When the evidence that would enable a finding to be made has been mysteriously lost or destroyed, tampered with, altered or partly withheld, or the evidence is conflicting and shifting.
- (x) The action of the Respondent is, on its face, so outrageous that even in the absence of any other damaging comparisons as indicated above it is presumed to have resulted from discriminatory bias against persons in the protected class.
- (xi) The Respondent's decision (to discipline, fire, refuse service, etc.) was based on his/her prejudice or his/her reliance on information from biased sources and the information relied upon can be shown to be untrue. There may or may not be any other comparisons that can be made in accordance with the above criteria.

- (2) No Probable Cause. If the Commission determines from the investigation of a complaint that there is not probable cause to believe the Respondent has engaged in any discriminatory practice or act as alleged in the complaint, it shall state its findings in writing, dismiss the complaint and notify the parties by mail. (Ordinance No. 1996-8)

(g) Reconsideration. A Complainant may apply to the Commission for a reconsideration of a dismissal of his/her complaint. Such application must be in writing, state specifically the grounds upon which it is based, and be filed with the Human Relations Office within fourteen (14) days from the date of the mailing of the notice of dismissal. A copy of said application shall be sent to the Respondent by certified mail. The Respondent shall have fourteen (14) days from the date of mailing of said application to the Respondent to file a written objection with the Commission, which shall be filed with the Human Relations Office. The Commission may order the complaint reinstated at its next special or regular meeting, but in no event earlier than fourteen (14) days after such application has been mailed to the Respondent or at any time after an objection from the Respondent is filed. (Ordinance No. 1996-8)

(h) Conciliation.

- (1) Conciliation Conference. If the Commission determines that probable cause exists for the allegations made in the complaint, it shall designate one or more of its members or Staff to undertake a conciliation conference with the parties in an attempt to resolve the complaint by mutual agreement. Within thirty (30) days after the probable cause finding or at such other time as may be approved by the Commission, a notice stating the time and place of the conciliation conference shall be sent to all parties and their legal representatives, if any. If the Complainant fails to attend the conciliation conference, the complaint may be dismissed, unless such absence is excused by the Conciliator for just cause. Each party at a conciliation conference may be represented by one person of his/her choice. If the Respondent fails to attend the conciliation conference, the Conciliator shall notify the Commission of same and the case shall proceed to a Public Hearing.
- (2) Successful Conciliation. If the conciliation conference is successful in resolving the complaint, the Conciliator shall have the terms of the settlement prepared and agreed to in writing by the parties. The Conciliator shall submit the settlement agreement to the Commission for its review and final decision thereon. All such agreements shall become effective only after they are approved by the Human Relations Commission. Except as prohibited by law, the Commission may be a party to such agreement, which may be signed by the Chairperson of the Commission, or by a majority of the Commission (which may include the Chairperson).
- (3) Unsuccessful Conciliation. If the conciliation conference is unsuccessful in resolving the complaint, the Conciliator shall notify the Commission of same and the case shall proceed to a Public Hearing. (Ordinance No. 1996-8)

(i) Public Hearing

- (1) Notice of hearing. In case of failure of conciliation efforts, or in advance of such efforts, as determined by the Commission, and after finding probable cause, Staff shall cause to be issued and served in the name of the Commission, a written notice, together with a copy of the complaint, as the same may have been amended, requiring the Respondent to answer to the charges of such complaint at a Public Hearing. The notice shall specify the time, date and place of such hearing. Notice shall be served by registered or certified mail, return receipt requested, or by personal service.
- (2) Complaint. A complaint may be amended as a matter of right by the Complainant, or in the case of a Staff filed complaint, by the Staff, or in the case of a Commission filed complaint, by the Commission at any time prior to the filing of an answer by the Respondent. A complaint may thereafter be amended only with the consent of all parties or with the consent of the Hearing Officer on application duly made in writing therefor. An amended complaint must be in the form as the original complaint; however, an amendment to a complaint filed by the Commission may be signed only by the Chairperson and need not be notarized.
- (3) Answer.
  - (a) Time of Filing. The Respondent shall file a written verified answer within seven (7) days, or by such time as agreed to by all parties, from the date of the mailing of the notice of the Public Hearing and this requirement shall be stated in said notice. The answer shall be filed at the Human Relations Office. Upon written application, Staff may extend the time within which the answer may be filed up to seven (7) days prior to the Public Hearing.
  - (b) Form of Answer. The answer shall contain an admission or denial of each allegation contained in the complaint or a statement that the Respondent does not have adequate knowledge or information sufficient to form a belief with respect to particular allegations. The answer shall contain a statement of any matters which constitute a defense to the allegations contained in the complaint.

- (c) Amendment to Answer. An answer may be amended as a matter of right seven (7) or more days prior to the date of the Public Hearing and thereafter may be amended only in the discretion of the Hearing Officer on application duly made in writing therefor. All answers shall contain the full name, address and telephone number of the Respondent and if the Respondent is represented by an attorney, the name, address and telephone number of said attorney. In any case where a complaint has been amended, the Respondent shall have an equal opportunity to amend his/her answer within the time specified in this Chapter and remaining for the filing of an answer or in such additional time as may be allowed by the Hearing Officer on application duly made therefor to the Hearing Officer.
- (4) Procedure Without Answer. Regardless of whether a Respondent files an answer within the time provided herein, a hearing may be held at the time and place specified in the Notice of Hearing, and Findings of Fact and orders may be entered upon testimony taken at the hearing.
- (5) Subpoenas.
  - (a) The Hearing Officer or any of the members of the Commission who preside at a Public Hearing may issue subpoenas upon the application of any party to the proceeding whenever necessary to compel the attendance of witnesses, or to require the production for examination of any books, records, correspondence, documents, papers or any other evidence relating to any matter under investigation or hearing before the Commission or at a Public Hearing.
  - (b) When a subpoena is issued upon the motion of a party of the proceeding other than the Commission, the customary legal cost of service, witness and mileage fees shall be paid by the party at whose request the subpoena is issued. Where a subpoena is issued upon the motion of the Commission, the cost of such service, witness and mileage fees shall be paid by the Commission.

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- (c) Any witness summoned may petition the Hearing Officer or the members of the Commission who are to preside over a Public Hearing to vacate or modify a subpoena. Prompt notice of the petition to vacate or modify a subpoena shall be given to the party, if any, who requested the issuance of the subpoenas. After such investigation as the Hearing Officer or the Commission members consider appropriate, the petition may be granted in whole or in part upon a finding that the testimony, or the evidence whose production is required, does not relate to any matter in question, or that a subpoena for the production of evidence is unreasonable and oppressive.
- (d) Upon failure of any person to comply with a subpoena issued as herein provided, the Commission may authorize its legal representative on its behalf to petition any court of competent jurisdiction to compel the attendance before the Commission or Hearing Officer of the person subpoenaed and to compel the production of subpoenaed evidence. If any person fails to obey any such court order, the Commission through its authorized legal representative may petition the court to hold such person in contempt of court. Such person may be assessed a fine by the Commission not in excess of \$1,000.00 for each offense, provided the person to whom the subpoena is issued is so notified on said subpoena that such fine may be assessed. Each such person shall be immediately notified of the amount of each such fine and each fine shall be paid within thirty days (30) days after it is assessed. In the event any such fines are not so paid, they shall be considered to be debts to the City of Bloomington and shall be collectible in the same manner provided by law for the collection of all other debts.
- (e) All subpoenas issued hereunder shall be served upon the party to whom they are directed by members of the Bloomington Police Department or by any other means which show that the subpoena has been received by the person to whom it was directed.

- (6) Rules of Evidence. The rules of evidence prevailing in the courts of law in this State shall not be applicable to nor bind any party, the representative of any party, nor any administrative person or body in any proceeding hereunder but such parties, persons and bodies shall consider any and all reliable, probative, and substantial evidence, statistical or otherwise, produced by anyone at any proceeding hereunder which may tend to prove or disprove any act or acts of discrimination alleged in the complaint under consideration. All testimony in any proceeding hereunder shall be given under oath. The Complainant has the burden of proving his or her case by a preponderance of the evidence.
- (7) Written Record of the Hearing. The written record of the Public Hearing shall consist of the notice of hearing, the complaint, the answer, the recorded transcript of the testimony taken at the hearing, the exhibits in evidence, motions, stipulations, oral arguments and the finding and orders of the Hearing Officer and of the Commission.
- (8) Close of Hearings. The Hearing Officer shall specifically inquire of all parties whether they have further proofs to offer or witnesses to be heard. Upon receiving negative replies, the Hearing Officer shall declare the hearing closed. If briefs are to be filed, the hearing shall be declared closed as of the final date set by the Hearing Officer for the receipt of briefs.
- (9) Findings and Recommendations.
  - (a) The Hearing Officer shall report his/her recommended findings to the Commission in writing within thirty (30) days of the close of the hearing. The Commission shall at its next meeting, or within a reasonable time after receipt of said Hearing Officer's report, adopt, modify, or reject in whole or in part and in writing the findings, recommendations, damages and/or the proposed fine of the Hearing Officer which, upon being signed by the Chairperson or by all members of the Commission attending such hearing shall constitute a final order of the Commission. A copy of the final order of the Commission shall be served by certified mail, or personal service on each party directly affected thereby.

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- (b) If the Commission conducts said Public Hearing, its findings, determinations, recommendations, damages to be paid to the Complainant and/or the fine shall be stated in writing which upon being signed by the Chairperson or by all members of the Commission who presided at the hearing shall constitute a final order of the Commission.
- (10) Review of Decision. Review of all decisions and final orders made at any public hearing provided for herein shall be by writ of certiorari and all appeals must be filed within thirty-five (35) days from the date that a copy of the decision or final order sought to be reviewed was served upon the party affected thereby. (Ordinance No. 1996-8)
- (j) Remedies.
  - (1) Relief may include, but is not limited to, an order:
    - (a) to cease the illegal conduct complained of and to take steps to alleviate the effect of the illegal conduct complained of;
    - (b) to pay actual damages, as reasonably determined by the Commission, for injury or loss suffered;
    - (c) to pay compensatory damages, as reasonably determined by the Commission;
    - (d) to hire, reinstate or upgrade the Complainant, with or without back pay or to provide such fringe benefits as the Complainant may have been denied;
    - (e) to sell or lease housing in question to the Complainant;
    - (f) to admit the Complainant to a public accommodation;
    - (g) to extend to the Complainant the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of the Respondent;

- (h) to pay the Complainant all or a portion of the costs, including reasonable attorney's fees, expert witness fees, witness fees, and duplicating costs, incurred in pursuing the complaint before the Commission or at any stage of judicial review;
  - (i) to take such action as may be necessary to make the Complainant whole, including, but not limited to awards of interest on the actual damages and back pay from the date of the violation;
  - (j) to file with the Commission a report as to the manner of compliance;
  - (k) to post in a conspicuous place notices which the Commission may publish or cause to be published setting forth requirements for compliance with this Ordinance, or other relevant information which the Commission determines necessary to explain this Ordinance; and
  - (l) to pay a fine of up to \$2,500 for each offense.
- (2) The total amount of actual and compensatory damages in the Commission's order shall not exceed \$50,000.00.
  - (3) The Commission may file with the Department of Professional Regulation of the State of Illinois a notice in the event that any licensed real estate broker or salesperson violates this Ordinance. (Ordinance No. 1996-8)

#### SEC. 11 SETTLEMENT.

(a) Circumstances. A settlement of any charge prior to a finding of probable cause may be effectuated at any time upon agreement of the parties. A settlement of any charge after a finding of probable cause shall be effectuated as specified in Section 10(h)(1) and (2) of this Chapter. (Ordinance No. 1999-89)

(b) Form. Settlements of charges prior to a finding of probable cause shall be reduced to writing by the staff, signed by the parties, and submitted by the staff to the Commission for inclusion in the Commission's records. Settlements of charges after a finding of probable cause shall be effectuated as specified in Section 10(h)(1) and (2) of this Chapter. (Ordinance No. 1999-89)

- (c) Violation.
  - (1) When either party alleges that a settlement order has been violated, the staff shall conduct an investigation into the matter.
  - (2) Upon finding substantial evidence to demonstrate that a settlement has been violated, the staff shall file notice of a settlement order violation with the Commission and serve all parties. The Commission shall have the authority to order appropriate sanctions permitted by this Code against the party found to have violated a settlement agreement. (Ordinance No. 1996-8)

## SEC. 12 EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE.

(a) The City of Bloomington shall not contract in any amount exceeding \$5,000.00 in any year with any contractor or vendor, or maintain any financial relationship with any financial institution, which does not first submit to the City a written commitment to provide equal employment opportunity in recruiting, training, and utilizing workers and to require all subcontractors to provide equal employment opportunity in recruiting, training and utilizing workers. (Ordinance No. 1996-8)

(b) The Commission shall have the authority to subpoena for records or testimony any financial institution within the city of Bloomington or any contractor or vendor contracting with the City of Bloomington for the purpose of investigating compliance with the provisions of this Section 12. Subpoenas shall be severed in the same manner as subpoenas issued under Section 10 (i) (5) of this Chapter. (Ordinance No. 1996-8)

(c) Any financial institution within the City of Bloomington or any contractor or vendor contracting with the City of Bloomington will be required on request to submit compliance reports in writing to the Human Relations Commission showing the implementation of and the extent of the effectiveness of their equal employment opportunity program in recruiting, training and hiring minority and women workers. (Ordinance No. 1996-8)

(d) In the event that any contractor, vendor or financial institution contracting with the City of Bloomington fails to comply with the Equal Employment Opportunity and/or Contract Compliance provisions of this Chapter, the City upon recommendation of the Human Relations Commission may deny, cancel, terminate, or suspend the contract in whole or in part and/or may recover the sum of \$50.00 for each day a party fails to comply with the provisions of this Chapter as liquidated damages and not as a penalty. (Ordinance No. 1996-8)

(e) Upon the request of the Commission, the services of all City departments and agencies shall be made available through the City Manager by their respective department heads to the Commission and upon request, relevant information in the possession of any department or agency shall be furnished to the Commission. (Ordinance No. 1996-8)

#### SEC. 13 JUDICIAL RELIEF.

Whenever deemed necessary in order to protect the rights of a Complainant or to preserve the power of the Commission to resolve a complaint, the Legal Department of the City of Bloomington, or the legal representative of the Commission, may apply to a court of competent jurisdiction for an injunction or other judicial relief to accomplish such purpose. (Ordinance No. 1996-8)

#### SEC. 14 LIMITATIONS.

Any action under Section 12 shall be commenced within one (1) year after the cause of action accrued and any other action hereunder shall be commenced within one hundred eighty (180) days after the cause of action accrued or after discovery thereof. (Ordinance No. 1996-8)

#### SEC. 15 PENALTY.

If fines or other damages due hereunder are not paid within thirty (30) days after they are assessed, they shall be considered to be debts to the City of Bloomington or to the party to whom they are owed and shall be collectible in the same manner provided by law for the collection of all other debts. (Ordinance No. 1996-8)

#### SEC. 16 SEVERABILITY.

If any section, paragraph, sentence or clause of this Chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of any other part of this Chapter. (Ordinance No. 1996-8)

January 22, 1966

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