

ORDINANCE 2023-13

**TO AMEND MONROE COUNTY CODE CHAPTER 520-- MONROE COUNTY
HUMAN RIGHTS ORDINANCE
Re: Human Rights Commission**

WHEREAS, the City of Bloomington created the Bloomington Human Rights Commission through adoption of Ordinance 70-37 in 1970; and

WHEREAS, Monroe County created the Monroe County Human Rights Commission in 2010; and

WHEREAS, the City and the County now desire to create a joint Human Rights Commission with jurisdiction over their respective boundaries.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS FOR MONROE COUNTY, INDIANA, THAT:

SECTION 1. Chapter 520 Human Rights Commission is hereby deleted in its entirety.

SECTION 2. The following section is hereby amending Chapter 520 of the Monroe County Code entitled "Monroe County Human Rights Ordinance" to read as follows:

MONROE COUNTY HUMAN RIGHTS ORDINANCE

520-01 Bloomington/Monroe County Human Rights Commission – Establishment.

The Bloomington/Monroe County Human Rights Commission is hereby established within the City's Community and Family Resources Department.

520-02 Public policy and purpose.

It is the public policy of the County, and of the City upon appropriate city authority, that they do not discriminate in the provision or implementation of their programs or services on the basis of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran. It is the public policy of the City, and of the County upon appropriate county authority, to provide all citizens equal opportunity for education, employment, access to public accommodations and acquisition through purchase or rental of real property, including but not limited to housing, and to eliminate segregation or separation based on race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property are hereby declared to be civil rights.

It is also against the public policy of the County, and of the City upon appropriate city authority, and a discriminatory practice for an employer to discriminate against a prospective employee on the basis of status of a veteran by:

- (1) Refusing to employ an applicant for employment on the basis that the applicant is a veteran of the armed forces of the United States; or
- (2) Refusing to employ an applicant for employment on the basis that the applicant is a member of the Indiana National Guard or member of a reserve component.

The practice of denying these rights to persons because of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of the city and of the county, upon appropriate county authority, and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex,

national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran is the purpose of this section.

It is also the public policy of the County, and the City upon appropriate city authority, to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders and lending institutions from unfounded charges of discrimination.

It is hereby declared to be contrary to the public policy of the County and of the City, upon appropriate city authority, and an unlawful practice to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry into the neighborhood of a person or persons of a particular race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status, status as a veteran or familial status.

It is also the public policy of the Monroe County to prohibit discrimination against or harassment of individuals, including employees, independent contractors, volunteers, interns, and any others doing sanctioned work for the city. Any such individual who believes she, he, or they have been discriminated against or harassed by a county employee has a right to bring a complaint to the attention of county officials, who will investigate the complaint promptly and take appropriate action.

520-03 Definitions.

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

(1) "Acquisition of real property" means the sale, rental, lease, sublease, construction or financing, including negotiations and other activities or procedures incident thereto, of:

(A) 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;

(B) Any building, structure, or portion thereof, or any improved or unimproved land utilized, or designed or intended for utilization, for business, commercial, or industrial or agricultural purposes; or

(C) Any vacant or unimproved land offered for sale or lease for any purpose whatsoever.

(2) "Affirmative action" means those acts which the commission deems necessary to assure compliance with the human rights ordinance.

(3) "Ancestry" refers to both the country from which a person's ancestors came and the citizenship of a person's ancestors.

(4) "Commission" means the Bloomington/Monroe County Human Rights Commission hereinafter created.

(5) "Commission attorney" means the city attorney or such assistants of the city attorney as may be assigned to the commission, or such other attorney as may be engaged by the commission or voluntarily lend his, her or their services to the commission.

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

(7) "Complainant" means any individual charging on his, her or their own behalf to have been personally aggrieved by a discriminatory practice or the commission attorney, a member of the Bloomington/Monroe County Human Rights

Commission, or the commission director charging that a discriminatory practice was committed against a person, other than himself, herself or themselves, or a class of people in order to vindicate the public policy of the state as defined in Indiana Code 22-9-1-2, and the public policy of the city and county as defined in Monroe County Code 520-2.

(8) "Complaint" means any written grievance filed by a complainant with the commission director. The original shall be signed and verified before a notary public or another person duly authorized by law to administer oaths and take acknowledgments. Notarial service shall be furnished by the City without charge.

(9) "Consent agreement" means a formal agreement entered into in lieu of adjudication.

(10) "Disability" means with respect to a person: (i) a physical or mental impairment that substantially limits one or more of the person's major life activities; (ii) a record of having an impairment described in subdivision (i) above; or (iii) being regarded as having an impairment described in subdivision (i) above.

(11) "Discriminatory practice" means the exclusion of a person by another person from equal opportunities because of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran; or a system which excludes persons from equal opportunities because of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran or the promotion or assistance of segregation or separation in any manner on the basis of the above categories; provided, it shall not be a discriminatory practice for an employment agency to refer for employment any individual, or a joint labor-management committee controlling apprenticeship or other training or retraining program to admit or employ any individual in such program on the basis of his, her or their religion, sex or national origin in those particular instances where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; further provided, that it shall not be discriminatory practice for a person to refuse to rent for occupancy as living quarters any space in owner-occupied multiple dwelling structure on the basis of sex.

(12) "Educational institution" includes all public and private schools and training centers, except that the term does not include any state agency as defined in subsection (27) of this section.

(13) "Employee" includes any person employed by another for wages or salary; provided, that it shall not include any individual employed by his, her or their parents, spouse or child.

(14) "Employer" includes any person employing six or more employees within the city or within the unincorporated areas of Monroe County, except that the term does not include a not-for-profit corporation or association organized exclusively for fraternal or religious purposes; nor any school, educational or charitable religious institution owned or conducted by, or affiliated with, a church or religious institution; nor any exclusively social club, corporation, or association that is not organized for profit; nor the City or county or any department thereof; nor any state agency as defined in subsection (27) of this section.

(15) "Employment agency" includes any person undertaking with or without compensation to procure, recruit, refer, or place employees.

(16) "Gender identity" means a person's actual or perceived gender-related attributes, self-image, appearance, expression or behavior, whether or not such characteristics differ from those traditionally associated with the person's assigned sex at birth.

The nine members of the Bloomington/Monroe County Human Rights Commission shall be appointed four by the Mayor, three by the Common Council, and

two by the Monroe County Commissioners, pursuant to the appropriate county authority.

520-05 Qualifications.

Members of the Bloomington/Monroe County Human Rights Commission appointed by the Mayor or the Common Council shall be representative of the community and shall be city residents. Members of the Commission appointed by the Monroe County Commissioners shall be representative of the community and shall be Monroe County residents, pursuant to the appropriate county authority.

520-06 Rules and regulations.

The Commission may adopt rules and regulations, both procedural and substantive, to effectuate the purpose of this chapter and to make more specific the procedures deemed necessary for orderly and equitable compliance with this section.

New rules, regulations, and guidelines may be adopted by the Commission after a public hearing by a majority vote of the Commission.

The rules, regulations, and guidelines of the Commission shall be available to the public at the office of the City of Bloomington's Community and Family Resources Department.

520-07 Powers and duties.

The commission shall have the following powers and duties:

(1) To create subcommittees and advisory committees as in its judgment will aid in effectuating the purpose of this section.

(2) To issue such publications and such results of investigation and research as in its judgment will tend to minimize or eliminate discrimination because of race, religion, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, veteran status or familial status.

(3) To investigate complaints filed with the commission. Complaints of discrimination shall be received and investigated by the director. A complaint shall be sufficiently complete so as to reflect properly the name and address and/or other contact information 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 one-hundred-eighty (180) days from the occurrence of the alleged discriminatory practice, or from the date of the termination of a published and meaningful grievance procedure provided by a respondent employer or labor union; provided, that complaints filed only with the Equal Employment Opportunity Commission shall be deemed to have been filed simultaneously with the commission for purposes of measuring the one-hundred-eighty (180) day limitation, as long as the complaint is otherwise within the Bloomington/Monroe County Human Rights Commission's jurisdiction; provided, further, that any person who files a complaint with the Indiana Civil Rights Commission shall have no recourse to the Bloomington/Monroe County Human Rights Commission concerning any of the matters alleged in such complaint; provided, further, that the commission shall have no jurisdiction over the state or any of its agencies, or over the city or county or any of their departments. After a complaint is scheduled for a public hearing, the legal department shall make reasonable efforts to conciliate all issues raised during the investigation of the case.

If upon all the evidence, the commission finds that a person has not engaged in any such unlawful practice or violation of this section, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the complaint as to such person.

Judicial review of such cease and desist order, or other final order, or other affirmative action or damages as referred to in this chapter may be obtained by filing in the Monroe Circuit Court. The scope of review shall be in accordance with the provisions set out in Indiana Code 4-21.5-1 et seq. If no proceeding to obtain judicial review is instituted within thirty calendar days from the receipt of notice by a person that such order has been made by the commission, the commission, if it determines that the person upon whom the cease and desist order has been served is not complying or is making no effort to comply, may obtain a decree of a court for the enforcement of such order in a circuit or superior court upon showing that such person is subject to the commission's jurisdiction and resides or transacts business within the county on which the petition for enforcement is brought, or may request the commission attorney or attorney representing the complainant to seek enforcement.

In order to eliminate prejudice among the various groups in the city and county and to further goodwill among such groups, the commission may prepare educational programs designed to emphasize and remedy the denial of equal opportunity because of a person's religion, race, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, or status as a veteran, its harmful effects, and its incompatibility with the principles of equality.

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

(a) Definitions.

This section applies only to cases alleging housing discrimination.

(1) "Familial status" means one or more individuals (who have not obtained the age of eighteen years) being domiciled with a parent or another person having legal custody of such individual(s) or the written permission of such parent or other person. The protections against discrimination on the basis of familial status shall apply to any person who is pregnant or in the process of securing legal custody of any individual who has not attained the age of eighteen years.

(2) “Dwelling” means any building, structure, or part of a building or structure, that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building structure or part of a building or structure that is occupied as, or designed or intended for occupancy by one or more families.

(3) "To rent" includes to lease, to sublease, to let or otherwise grant for consideration the right to occupy the premises not owned by the occupant.

(4) “Discriminatory housing practice” includes: (A) practices prohibited by

Section 520-03(11) of this code, (B) refusing to rent to an individual or family on the basis of familial status, (C) refusing to allow a tenant with a disability, as defined by Section 520-03(10), to make reasonable modifications of the rented premises at the tenant's expense if such modifications are necessary to afford the tenant full enjoyment of the premises. The landlord may, where it is reasonable to do so, condition permission for the modification(s) on the tenant's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord may require the tenant to acquire any necessary permits and to perform the modifications in a workmanlike standard. (D) Refusing to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a tenant with a disability, as that term is defined by Section 520-03(10), equal opportunity to use and enjoy a dwelling.

(b) Exemptions.

This section applies only to cases alleging housing discrimination.

(1) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(2) Nothing 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 dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preferences to such persons. Not shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(3) Nothing in this section limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(4) Nothing in this section regarding familial status applies with respect to housing for older persons, as defined below. As used in this section, "housing for older persons" means housing:

(A) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development designed and operated to assist elderly persons (as defined in the state or federal program); or

(B) Intended for; and solely occupied by persons sixty-two years of age or older; or

(C) Intended and operated for occupancy by at least one person fifty-five years of age or older per unit if the following requirements are met: (A) 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 practicable, that such housing is necessary to provide important housing opportunities for older persons; and (B) that at least eighty percent of the units are occupied by at least one person fifty-five years of age or older per unit; and (C) the publication of, and adherence to policies and procedure which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

(5) Nothing in this section applies to the following:

(A) The sale or rental of a single-family house sold or rented by an owner if: (i) The owner does not own more than three single-family houses at any one time; or own any interest in, nor is there owned or reserved on the owner's behalf, under any express or voluntary agreement, title to, or any right to any part of the proceeds from the sale or rental of more than three single-family houses at any one time; and (ii) The house was sold or rented without the use of the sales or rental facilities or services of a real estate broker, agent or salesperson licensed under state law.

(B) The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the living quarters as the owner's residence.

520-12 Hate crime statistics.

The Bloomington/Monroe County Human Rights Commission may collect data and issue reports on the incidence of hate crimes in its jurisdiction. Hate crimes include verbal or physical abuse directed at individuals or groups because of their religion, race, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, or status as a veteran.

520-13 Complaints of housing status discrimination.

In complaints of discrimination on the basis of housing status discrimination, the commission's authority shall typically be limited to voluntary investigations and voluntary mediation.

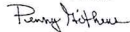
SECTION 3. If any section, sentence or provision of this ordinance, or application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions or application of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 4. This ordinance shall be in effect, after its passage, any required publication, and, as necessary, other promulgation in accordance with the law.


Approved this 3rd day of May, 2023, by the Board of Commissioners of Monroe County.

MONROE COUNTY BOARD OF COMMISSIONERS

"AYES"



Penny Githens, President



Julie Thomas, Vice President

Not Present

Lee Jones, Commissioner

"NAYS"

Penny Githens, President

Julie Thomas, Vice President

Lee Jones, Commissioner

ATTEST:

 5/3/2023

Catherine Smith, Auditor