

ORDINANCE NO. 3283 MICHIGAN CITY HUMAN RIGHTS ORDINANCE

An ordinance creating a Human Rights Commission and extending to all of the residents of the City of Michigan City equal opportunity for education, employment, access to public accommodations and conveniences and acquisition through purchase or rental of real property.

WHEREAS, the present Ordinance should be re-enacted to comply with and as authorized by the requirements of the Indiana Civil Rights Act.

WHEREAS, the Common Council should be notified of the pendency of all public hearings; and

WHEREAS, discrimination in employment, housing, public accommodations, education and other areas of civil rights exist;

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY THAT ORDINANCE NUMBER 2266 is hereby repealed and following Human Rights Ordinance is hereby adopted:

SECTION 1. MICHIGAN CITY HUMAN RIGHTS ORDINANCE - TITLE #3283

This ordinance shall be known and may be cited and referred to as the "MICHIGAN CITY HUMAN RIGHTS ORDINANCE".

SECTION 2. PURPOSE

It is the public policy of the city of Michigan City, Indiana to provide all of its citizens equal opportunity for education, employment, access to public conveniences and accommodations and acquisition through purchase or rental of real property including but not limited to housing, and to eliminate segregation or separation based solely on race, religion, color, sex, national origin, ancestry, handicap, or familial status since such segregation is an impediment to equal opportunity; and

WHEREAS, equal educational and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property, to the extent that remedies for the prevention of their denial are herein provided are hereby declared to be civil rights. The practice of denying these rights to persons by reason of the race, religion, color, sex, national origin, ancestry, handicap, or familial status of such person is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of this city, and are hereby declared to be unlawful discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, national origin, ancestry, handicap, or familial status through reasonable methods is the purpose of this Ordinance.

WHEREAS, it is also the public policy of the city of Michigan City to protect employers, labor organizations, employment agencies, property owners, real estate brokers, and lending institutions from unfounded charges of discrimination.

SECTION 3. DEFINITIONS

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

A. The term "COMMISSION" shall mean the Michigan City Human Rights Commission hereinafter created.

B. The term "DIRECTOR" shall mean the director of the Michigan City Human Rights Commission. The director shall be appointed by the Commission with the approval and consent of the Mayor.

C. The term "COMMISSION ATTORNEY" shall mean the city attorney, or such other attorneys as may be engaged for the Commission by Commission.

D. The term "PERSON" includes one or more individuals, the City and any subdivisions thereof, partnerships, associations, organizations, corporations, labor organizations, cooperatives, legal representatives, mutual companies, joint stock companies, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and other groups and persons. The foregoing includes members, representatives, officers, directors and agents.

E. The term "EMPLOYER" includes any person employing ten (10) or more employees within the city and includes the city and any subdivision thereof; except that the term "EMPLOYER" does not include any not-for-profit corporation or association organized exclusively for fraternal or religious purposes, or 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, but shall include any governmental unit, agency or employee as to which the city has the power to legislate.

F. The term "EMPLOYEE" includes any person employed by another for wages or salary; provided, however, that it shall not include any person employed by his or her parents, spouse, or child.

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

H. The term "OWNER" includes the lessor, sub-lessor, assignor, managing agent, or other person having the right to sell, rent, or lease any real property.

I. The term "REAL ESTATE OPERATOR" includes any person partnership, association, or corporation who for a fee or other valuable consideration, sells, purchases, exchanges or rents, negotiates or offers or attempts to negotiate, the sale, purchase, exchange, or rental of the real property of another, or holds himself out as engaged in the business of selling purchasing, exchanging, or renting the real property to another, or collects rental for the use of real property of another.

J. The term "REAL PROPERTY" includes any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more persons, transient or non-transient, and includes improved and unimproved commercial real estate, office buildings, lands tenement apartments, single-family multi-family dwellings, mobile homes, facilities, corporeal and incorporeal and property owned, leased or managed by the city or any subdivision thereof, including but not limited to publicly assisted housing.

K. The term "FAMILIAL STATUS" includes one or more individuals (who have not attained the age of 18 years) being domiciled with -

1. A parent(s) or another person(s) having legal custody of such individual or individuals; or

2. The designee of such parent(s) or other person(s) having such custody, with the written permission of parent(s) or other person(s).

The protections afforded against housing discrimination on the basis of familial status shall apply to any person(s) who is pregnant or is in the process of securing legal custody of any individual(s) who has not attained the age of 18 years.

L. The term "EDUCATIONAL INSTITUTION" includes all public and private schools and training centers except those affiliated with religious institutions that may give preference to members of their religious group in selecting their students.

M. The term "EMPLOYMENT AGENCY" includes any person undertaking with or without compensation to procure, recruit, refer, or place employees.

N. The term "DISCRIMINATORY PRACTICE" shall mean the exclusion of a person by another person from equal opportunities because of race, religion, color, sex, national origin, ancestry, handicap, or familial status; or the promotion of racial segregation or separation in any manner, including but not limited to, the inducing or, or attempting to induce, for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, national origin, ancestry, handicap, or familial status. Every discriminatory practice relating to the acquisition or sale of real property, education, public accommodations or employment shall be considered unlawful unless it is specifically exempted by this Ordinance.

O. The term "PUBLIC ACCOMMODATION" means any establishment that caters or offers its services or facilities or goods to the general public.

P. The term "COMPLAINANT" means any individual charging on his/her own behalf to have been personally aggrieved by a discriminatory practice, or the director, or staff member or a commissioner of the Michigan City Human Rights Commission charging that a discriminatory practice was committed against a person, other than himself, or a class of people, in order to vindicate the public policy of the city of Michigan City as defined in Section 2 of this Ordinance.

Q. The term "CONSENT AGREEMENT" shall mean a formal agreement entered into in lieu of adjudication.

R. The term "AFFIRMATIVE ACTION" shall mean those acts that the Commission deems necessary to assure compliance with the Michigan City Human Rights Ordinance.

S. The term "SEX" as it applies to segregation or separation shall apply to all types of employment, education, public accommodations, and housing; provided, however, that (1) it shall not be a discriminatory practice to maintain separate restrooms or dressing rooms; and that (2) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, or for an employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program on the basis of sex in those certain instances where sex is a bona fide occupational operation of that particular business or enterprise; and that (3) it shall not be a discriminatory practice for a private or religious educational institution to continue to maintain and enforce a policy of admitting students of one sex only.

T. The term "HANDICAP" means (1) physical or mental impairment which substantially limits one or more of a person's major life activities, or (2) a record of such an impairment and includes (3) a person who is regarded as having such an impairment (4) this term does not apply to drug or alcohol abuse or addiction.

U. The term "FINANCIAL INSTITUTION" means banks, banking organizations; mortgage company, insurance company, or other lender to whom applications made for financial assistance for the purchase lease acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these.

V. The term "COMPLAINT" means any written grievance filed by a complainant pursuant to the provisions of this Ordinance.

SECTION 4. COMMISSION CREATED - MEMBERSHIP TERMS

A. There is hereby created a Commission to be known as the Human Rights Commission (hereinafter referred to as the "COMMISSION"), which shall be composed of twelve (12) members each who shall be a resident of the City, who shall be appointed by the Mayor, by and with the advice and consent of the Common Council. Commissioners shall be appointed for terms of four (4) years each, except that any individual appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she shall succeed. Any member of the Commission may be removed by the Mayor upon notice and hearing for neglect of duty or malfeasance in office, but for no other reason.

B. A vacancy on the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and seven (7) members of the Commission shall at all times constitute a quorum.

C. The Commission shall establish a principal office in the City of Michigan City, but it may meet and exercise any or all of its powers at any other place in any part of the city.

D. The next meeting of the Commission shall be called within thirty (30) days after the effective date of this Ordinance, providing that at least seven (7) members have been duly qualified to serve on the Commission. At its next meeting and each annual meeting held thereafter the Commission shall organize by the election of a chairperson and vice-chairperson, each of whom, except those elected shall serve for a term of one year and until his successor is elected. E. The expenses for carrying on the Commission's activities maybe budgeted for and paid out of the funds in the city treasury and appropriated by the city council for such purposes pursuant to the laws of the State of Indiana; however, the Commission shall also have the authority to accept gifts or bequests, or other payments, public or private, to help finance its activities.

SECTION 5. UNLAWFUL DISCRIMINATORY PRACTICES

The exclusion of a person from or failure or refusal to extend to a person equal opportunities because of race, religion, color, sex, national origin, ancestry, handicap, or the promotions of racial segregation in any manner, are hereby declared to be unlawful discriminatory practices and are hereby declared to be illegal. Unlawful discriminatory practices shall include, but are not limited to the following:

A. Unlawful Housing Practices. It is an unlawful discriminatory practice for any owner or any real estate operator, or an individual employed by or acting on behalf of any real estate operator;

1. to refuse to sell, exchange, rent or lease or other- wise deny to or withhold real property including mobile homes from any individuals because of their race, religion, color, sex, national origin, ancestry, handicap, or familial status;

2. to discriminate against any individuals because of their race, religion, color, sex, national origin, ancestry, handicap, or familial status, in the terms, conditions, or

privileges of the sale, exchange, rental or lease of real property including mobile homes or in the furnishing of facilities or services in connection therewith;

3. to refuse to receive or transmit a bona fide offer to purchase, rent or lease real property including mobile homes from any individual because of their race, religion, color, sex, national origin, ancestry, handicap, or familial status;

4. to refuse to negotiate for the sale, rental, or lease of real property including mobile homes to any individuals because of their race, religion, color, sex, national origin, ancestry, handicap, or familial status;

5. to represent to any individuals that real property including mobile homes is not available for inspection, sale, rental, or lease when in fact it is so available, or to refuse to permit any individuals to inspect real property including mobile homes because of their race, religion, color, sex, national origin, ancestry, handicap, or familial status;

6. to print, circulate, post or mail or cause to be printed, circulated, posted or mailed an advertisement or sign, or to use a form or application for the purchase, rental or lease of real property, including mobile homes or to make a record of inquiry in connection with the prospective purchase, rental or lease of real property, including mobile homes which indicates directly a limitation, specification, or discrimination as to race, religion, color, sex, national origin, ancestry, handicap, or familial status, or an intent to make such a limitation, specification, or discrimination;

7. to offer, solicit, accept, use or retain a listing of real property including mobile homes for sale, rental or lease with the understanding that an individual may be discriminated against in the sale, rental or lease of the real property including mobile homes or in the furnishing of facilities or services in connection therewith because of his race, religion, color, sex, national origin, ancestry, handicap, or familial status;

8. to otherwise deny or withhold real property including mobile homes from any individuals because of their race, religion, color, sex, national origin, ancestry, handicap, or familial status;

9.

a. To discriminate because of a handicap by providing that it is a discriminatory housing practice for a person to discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of: that buyer or renter; a person residing, in or intending to reside in, that dwelling after it is sold, rented, or made available; or any person associated with that buyer or renter;

b. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services of facilities in connection with the dwelling because of a handicap of: that person; a person residing in or intending to reside

in that dwelling after it is sold, rented, or made available; or any person associated with that person.

c. Discrimination includes:

(1) refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises;

(2) a refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling;

(3) in connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:

(a) the public use and common use parts of the dwellings are readily accessible to and usable by handicapped persons;

(b) all the doors are designed to allow passage into and within all premises within the dwellings and are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(c) all premises within the dwellings contain the following features of adaptive design: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space;

d. as used in subsection c, "covered multifamily dwellings" means: buildings consisting of four (4) or more units if the buildings have one (1) or more elevators and; ground floor units in other buildings consisting of four (4) or more units;

e. compliance with the rules of the fire prevention and building safety commission that incorporate by reference the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (ANSI A117.1) satisfies the requirements of subsection c (3)(c);

f. this section does not require 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.

B. Exemptions to Unlawful Housing Practices. Subsection "A" does not apply to the following:

1. The sale or rental of a single-family house sold or rented by an owner if: a. the owner does not own more than three (3) single-family houses at any one (1) 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 (3) single-family houses at any one (1) time; and

b. the house was sold or rented without the use of the sales or rental facilities or services of a real estate broker, an agent, or a licensed salesman, or of an employee or agent of a licensed broker, an agent, or a salesman, or the facilities or services of the owner of a dwelling designed or intended for occupancy by five (5) or more families; or the publication, posting, or mailing of a notice, a statement, or an advertisement prohibited by subsection A-6.
2. 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 (4) families living independently of each other if the owner maintains and occupies one (1) of the living quarters as the owner's residence.
3. The exemption listed in subsection B-1 above applies to only one (1) sale or rental in a twenty-four (24) month period if the owner was not the most recent resident of the house at the time of the sale or rental.
4. Subsection A does not prohibit a religious organization, an association, or a society or a nonprofit institution or an organization operated, supervised, or controlled by or in conjunction with a religious organization, an association, or a society from: limiting the sale, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion; or giving preference to person of the same religion, unless membership in the religion is restricted because of race, color, or national origin.
5. Subsection A does not prohibit a private club not open to the public that, as an incident to the club's primary purpose, provides lodging that the club owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to the members or from giving preference to the members, unless membership in the club is restricted because of race, color, or national origin.
6. The Provisions relating to familial status do not apply to housing for older persons. "Housing for older persons" means housing: that the commission determines is specifically designed and operated to assist elderly persons under a federal or state program; intended and operated for occupancy by persons at least sixty-two (62) years of age; or intended and operated for occupancy by at least one (1) person at least fifty-five (55) years of age in each unit as determined by Commission rules.
7. Subsection A does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, religion, color, sex, national origin, ancestry, handicap, or familial status.

8. Subsection A does not affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling or restriction relating to health or safety standards; nor does it affect a requirement of non-discrimination in any other state or federal law.

C. Unlawful Financial Practices. It is an unlawful discriminatory practice for a financial institution or an individual employed by or acting on behalf of a financial institution;

1. to discriminate against any individuals because of the race, religion, color, sex, national origin, ancestry, handicap, or familial status, of the individual or the prospective owner, tenant or occupant of the real property including mobile homes or of a member, stockholder, director, officer, employee, or representative of any of these, in the granting, withholding, extending, modifying or renewing, the rates, terms, conditions privileges, or other provisions of financial assistance or in the extension of financial assistance or in the extension of services in connection therewith; or

2. to use a form of application for financial assistance or to make or keep a record of inquiry in connection with applications for financial assistance which indicate directly a limitation, specification or discrimination as to race, religion, color, sex, national origin, ancestry, handicap, familial status, or an intent to make such a limitation, specification, or discrimination;

3. to discriminate because of race, color, religion, sex, national origin, ancestry, handicap or familial status against any applicant in the fixing of amount, interest rate, duration or other terms or conditions of a loan or other financial assistance, or to make a lower appraisal evaluation because of race, religion, color, sex, national origin, ancestry, handicap, or familial status of any applicant or of any person associated with any applicant in connection with such loan or other financial assistance.

D. Block Busting. It is an unlawful discriminatory practice for any owner or any real estate operator, a real estate salesman, a financial institution, an employee or any of these, for the purpose of inducing a real estate transaction from which he may benefit financially:

1. to represent that a change has occurred or will or any may occur in the composition with respect to race, religion, color, sex, national origin, ancestry, handicap, familial status, or of the owners or occupants in the block, neighborhood, or area in which the real property, including mobile homes is located; or

2. to represent that this change will or may result in the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property, including mobile homes is located.

E. Employers Discrimination. It is an unlawful discriminatory practice for an employer:

1. to fail or refuse to hire, promote, or upgrade, or to discharge any individuals, or otherwise to discriminate against any individuals with respect to their compensation, tenure, terms, conditions, or privileges of employment, because of such individuals' race, religion, color, sex, national origin, ancestry, handicap; or
2. to limit, segregate, or classify their employees in any way which would deprive or tend to deprive any individuals of employment opportunities or otherwise adversely affect their status as an employee, because of such individual's race, religion, color, sex, national origin, ancestry, handicap; or
3. to publish or cause to be published any notice or advertisement with respect to employment which indicates any specification, limitation, preference or discrimination based on race, religion, color, sex, national origin, ancestry or handicap; or
4. to fail to provide reasonable accommodation to a known physical or mental limitation of an otherwise qualified handicapped employee or prospective employee or to fail to make reasonable accommodation to the religious observance or practice of any employee or prospective employee unless an employer can demonstrate that the accommodation would impose an undue hardship on the conduct of an employer's business.

F. EXCEPTIONS UNDER HANDICAPPED PROVISIONS

1. The prohibition against discrimination in employment, because of handicap does not apply to failure of an employer to employ or to retain as an employee any person who because of a handicap is physically or otherwise unable to efficiently and safely perform, at the standards set by the employer, the duties required in that job.
2. After a handicapped individual is employed, the employer shall not be required under this Ordinance to promote or transfer such handicapped person to another job or occupation unless, prior to such transfer, such handicapped person by training or experience is qualified for such job or occupation.

G. Labor Organization Discrimination. It is unlawful discriminatory practice for labor organization:

1. to exclude or to expel from its membership, or otherwise to discriminate against, any members or applicants for membership because of their race, religion, color, sex, national origin, ancestry, or handicap;
2. to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individuals, in any way which would deprive or tend to deprive these individuals of employment opportunities or otherwise adversely affect their status as employees or as applicants for employment, because of such individual's race, religion, color, sex, national origin, ancestry, or handicap;

3. to cause or attempt to cause an employer to discriminate against an individual in violation of this action;

4. to discriminate against any individuals or to limit, segregate or qualify its membership in any way which would tend to deprive such individuals of employment opportunities, or would limit their employment opportunities or otherwise adversely affect their status as employees or as applicants for employment or would affect adversely their wages, hours of employment conditions because of such individual's race, religion, color, sex, national origin, ancestry, or handicap.

H. Apprenticeship or Training Discrimination. It is an unlawful discriminatory practice for an employer, labor organization or joint labor management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individuals because of their race, religion, color, sex, national origin, ancestry, or handicap, in admission to or employment in any program established to provide apprenticeship or other training.

I. Employment Agencies Discrimination. It is an unlawful discriminatory practice for an employment agency to fail or refuse to classify properly, refer for employment or otherwise to discriminate against any individual because of his race, religion, color, sex, national origin, ancestry, or handicap, or to conduct business under a name which directly expresses any limitation, specification or discrimination as to race, religion, color, sex, national origin, ancestry, or handicap.

J. Public Accommodations. It is an unlawful practice for any person who is the owner, lessor, proprietor, manager, superintendent, or employee of any place of public accommodation, or amusement:

1. to discriminate against any person because of such individuals race, religion, color, sex, national origin, ancestry, or handicap directly, by refusing, withholding or denying to such person any of the services, accommodations, or amusement, by setting different rates or charges therefore, or by placing or attempting to place any person in a separate section or area of the premises or facilities of the public accommodation, or amusement;

2. to publish, circulate, issue, display, post or mail, directly, any written or printed communication, notice or advertisement to the effect that any of the services, accommodations, advantages, facilities or privileges of any place of public accommodations, or amusement, will be refused, withheld, or denied to any person on account of race, religion, color, sex, national origin, ancestry, or handicap or that the patronage of any person of a particular race, religion, color, sex, national origin, ancestry, or handicap or is unwelcome, objectionable or not acceptable, desired, or solicited, or that any person is required or requested to use a separate section or area of the premises or facilities of the place of public accommodation, or amusement, because of race, religion, color, sex, national origin, ancestry, or handicap.

K. Educational Institutions. It is an unlawful discriminatory practice for any educational institution to deny admittance to any prospective student or enrollee, or to deny any service offered by such institution to any person, otherwise qualified for such service, on the ground of race, religion, color, sex, national origin, ancestry, or handicap.

L. Nothing contained in this section shall be construed to prevent the termination of the employment of any person who is unable to perform satisfactorily his duties.

M. It is an unlawful discriminatory practice for any person, including but not limited to any employer, employment agency, labor organization, educational institution, financial institution, or any owner or any real estate operator to discharge, expel or penalize any individuals in any manner because they have filed a complaint, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Ordinance.

N. Other Unlawful Practices:

1. It is an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce the doing of any act declared unlawful by this Ordinance;

2. It is an unlawful discriminatory practice for any person to knowingly obstruct the fair, equal and lawful enforcement of this Ordinance by coercing or intimidating any complainant or prospective complainant, or any witness to any act made unlawful herein, or by destroying or altering any records, documents or other evidence relevant to any alleged unlawful discriminatory practice as defined herein, after such person had received actual notice of a discrimination complaint or has been served notice of a complaint filed;

3. It is an unlawful discriminatory practice for any person, including but not limited to any employer, employment agency, labor organization, education institution, lending institution or real estate broker to discharge, expel or penalize any person in any manner because of filing a complaint, assisting or participating in any manner in an investigation, proceeding or hearing under this Ordinance.

SECTION 6. POWERS AND DUTIES

A. The Commission shall have the following powers and duties:

1. investigate, conciliate and hear complaints;

2. subpoena and compel the attendance of witnesses or production of pertinent documents and records;

3. administer oaths;

4. examine witnesses;

5. appoint hearing examiners or panels;
6. make findings and recommendations;
7. issue cease and desist orders or orders requiring remedial action;
8. order payment of actual damages, except these damages to be paid as a result of discriminatory practices relating to employment shall be limited to lost wages, salaries, commissions or fringe benefits;
9. institute actions for appropriate legal or equitable relief in a circuit or superior court;
10. adopt procedural rules and regulations;
11. initiate complaints, except that no person who initiates a complaint may participate as a member of the agency in the hearing or disposition of the complaint; and
12. conduct programs and activities to carry out the public policy of City of Michigan City, as provided, in Section 2 of this Ordinance, within the territorial boundaries of the City of Michigan City.

B. to administer this Ordinance. To establish and maintain a permanent office in the city of Michigan City. To create subcommittees and advisory committees as in its judgment will aid in effectuating the purposes of this Ordinance. To establish an adequate staff as authorized by the Commission and as approved for in the budget.

C. to adopt, promulgate, amend, and rescind rules and regulations to effectuate the purpose of this Ordinance and to make more specific the procedures deemed necessary for orderly and equitable disposition of complaints. Such rules and regulations shall be adopted by the Commission in accordance with the provisions of the Municipal Code of the City of Michigan City as may hereafter be amended. The rules and regulations of the Commission shall be available to the public at the office of the Commission.

D. to issue such publications and such results of investigation and research as in its judgment will tend to minimize or eliminate discrimination because of race, religion, color, sex, national origin, ancestry, handicap, or familial status.

E. to prepare and issue a report annually to the City Council and Mayor, describing in detail the investigations and conciliation proceedings it has conducted and their outcome, the progress made and any other work performed and achievements made towards the elimination of discrimination.

F. to formulate policies to effectuate the purposes of this ordinance and make recommendations to the city and its subdivisions to effectuate such policies. The several departments, commission, boards, authorities, divisions, bureaus, and officers of the city

and its subdivisions shall furnish the Commission, upon its requests, all records, papers, and information in their possession relating to any matter before the Commission.

G. if the respondent fails to comply with the request to attend a hearing or to produce the necessary records and documents, the Commission may subpoena such attendance or witnesses and production of pertinent records and documents. The Commission through the City Attorney or Commission Attorney shall have the power to institute actions for appropriate legal or equitable relief in a circuit or superior court to obtain enforcement of any Commission order or subpoena. All subpoenas and orders emanating from the Commission shall be served pursuant to the Indiana Rules of Civil Procedure applicable to service in civil actions. Provided that no Commissioner shall take part in a hearing on a complaint in which said Commissioner is the complainant.

H. to reduce the terms of conciliation agreed to by the parties to a writing to be called a Consent Agreement which the parties and a majority of the Commissioners shall sign. When so signed the Consent Agreement shall have the same effect as a cease and desist order. If the Commission determines that a party to a Consent Agreement is not complying with it. The Commission may obtain enforcement of the Consent Agreement in a Circuit or Superior Court upon showing that the party is not complying with the Consent Agreement and that the party is subject to the Commission's jurisdiction and resides or transacts business within the City of Michigan City.

I. at all appropriate times the confidentiality of the material collected by the Commission shall be respected by the Commission and staff.

J. after a complaint has been administratively closed by the Commission, the Commission shall be required to retain all material, papers, documents, reports and the like for at least two (2) years.

SECTION 7. PROCEDURE - ENFORCEMENT

A. No complaint may be accepted by the Commission unless it substantially complies with the following requirements:

1. The complaint must sufficiently show the full name and address of the complainant; the full name and address of the person, employer, employment agency, labor organization, real estate broker, financial institution or educational institution 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 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 forum 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.

2. The original complaint must be signed and verified before a notary public or any other person duly authorized by law to administer oaths and take acknowledgements. Notice of the charge, including the date, place, and circumstances of the alleged unlawful discrimination, shall be served upon the respondent within ten (10) days of the filing with the Commission.

3. No employment or public accommodations complaint shall be valid unless filed within 90 days from the date of the occurrence of the alleged discriminatory practice.

4. No housing discrimination complaint shall be valid unless filed within one (1) year from the date of the occurrence of the alleged discriminatory practice.

B. The Commission shall make a prompt and full investigation of each complaint that is properly filed. The Commission may by its rules and regulations authorize such an investigation by an individual Commissioner, by any committee or subcommittee of the Commission, by the director of the Commission, or by such staff members of the Commission as may be designated.

C. If a subcommittee composed of three (3) Commissioners determines that probable cause exists for the allegations made in the complaint, it shall first attempt to resolve the alleged discriminatory practice by means of conciliation. The subcommittee shall not make public the details of any conciliation and/or consent agreement except when so authorized by the person against whom the complaint was made or when a party to the conciliation and/or consent agreement has not complied with the agreement. The members of this subcommittee will not later sit as members at any subsequent public hearing in the same case.

D. If the subcommittee shall determine, either on the face of the complaint or after investigation, that said complaint should be dismissed, the subcommittee shall dismiss the complaint and notify the parties by mail of its determination and of the complainant's rights to apply to the Commission for a reconsideration of such dismissal as provided in these rules.

E. In any case of failure to resolve the alleged discriminatory practice charged in the complaint by means of conciliation or persuasion, the Commission with at least five (5) members being present shall hold a public hearing to determine whether or not an unlawful discriminatory practice has been committed. The Commission shall serve upon the person charged of the discriminatory practice hereinafter referred to as the respondent, a statement of charges made in the complaint and a notice of the time and place of the hearing. At such time said notice shall also be served upon the Common Council of the city of Michigan City. The hearing shall be held not less than fifteen (15) days after the service of the statement of charges. The respondent shall have the right to file an answer to the statement of charges, to appear at the hearing in person or to be represented by an attorney or any other person and to examine and cross-examine witnesses.

F. Complaints may be amended at any time prior to hearing provided that no hearing may be held on an amended complaint within fifteen (15) days after the filing of such amended complaint and notice to the adverse party thereto, no less than five (5) days prior to said public hearing.

G. If upon all the evidence presented, the Commission finds that the respondent has not engaged in any unlawful discriminatory practice, shall state in writing its findings of fact, dismiss the complaint and so notify respondent.

H. If upon all the evidence presented the Commission finds that respondent has engaged in an unlawful discriminatory practice, it may cause to be served on such respondent a written order requiring such person to take such further affirmative action as will effectuate the purpose of this Ordinance including the awarding of damages. If the Commission subsequently determines that the respondent upon whom the order has been served is not complying with such order, or is making no effort to comply with such order, the Commission may certify the noncompliance, or lack of effort, to the City Attorney or Commission Attorney, who may seek and obtain a decree of court for the enforcement of its order in the Circuit or Superior Court provided that a failure to comply with a Consent Agreement shall be considered as a failure to comply with a cease and desist order.

I. Any evidence may be introduced at any hearing on a complaint provided that such evidence is relevant and material to the subject matter of said complaint. The Commission shall rule on all objections to the introduction of any evidence provided that the Commission may by motion or rule designate a member or members to so rule prior to the commencement of any hearing.

SECTION 9. PENALTIES

Any person who engages in an unlawful discriminatory practice as defined in this Ordinance, shall be ordered to pay actual damages, except these damages to be paid as a result of discriminatory practices relating to employment shall be limited to lost wages, salaries, commissions or fringe benefits. Any who engages in unlawful housing practices as defined in the Ordinance, shall be subject to a civil action in a circuit or superior court by the aggrieved person where the court may award to the prevailing party actual and punitive damages, reasonable attorney fees, court costs; any permanent or temporary injunction; temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action. In accord with IC 22-9.5-7.

Any person who engages in unlawful housing practice as defined in this Ordinance may also be guilty of a Class A misdemeanor in accord with IC 22-9.5-10.

SECTION 10. JUDICIAL REVIEW

Judicial review of such orders or other affirmative action or damages as referred to in this Ordinance shall be obtained in accordance with the provisions of Burns Indiana Statute Ann. SS.63-3001-63-3030 as may hereafter be amended. If no proceedings to obtain judicial review is instituted within thirty (30) days from receipt of notice by a respondent that such order has been made by the Commission, the Commission, it determines that the respondent upon whom the cease and desist order has been served is not complying or is not making effort to comply, may obtain a decree of a court for the enforcement of such order in the LaPorte County □ Court or any other court of competent jurisdiction upon showing that such respondent is subject to the Commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.

SECTION 11. CITY EMPLOYMENT AND CITY CONTRACTS:

CONTRACTORS

The City shall not engage in any of the discriminatory practices set forth in this Ordinance in any of its departments, divisions, bureaus, or through any of its officials or employees. Every contract to which the City or any of its political or civil subdivisions is a party, including franchises granted to public utilities, shall contain a provision requiring the contractor and his sub-contractors not to discriminate against any employee or applicant for employment, or promotion who is to be employed in the performance of such contract with respect to hire, tenure, terms, conditions or privileges of employment because of his race, religion, color, sex, national origin, ancestry, or handicap. The contractor shall obligate himself and his subcontractors to comply with all provisions of this Ordinance. Breach of this covenant or provision may be considered a material breach of the contract.

SECTION 12. PENDING SUITS

This Ordinance shall not be construed or held to repeal a former Ordinance whether such former Ordinance is expressed repeal or not as to any offense committed against such former Ordinance, or as to any act done, any penalty forfeiture or punishment so incurred, or any right accrued or claim arising before the new Ordinance takes effect, save only that the proceedings thereafter shall conform to the Ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new Ordinance, such provision may be by the consent of the party affected, applied to any judgment announced after the new Ordinance takes effect. Nothing contained in this or the preceding section shall be construed as abating any action now pending under or by virtue of any general Ordinance of the city herein repealed or as discontinuing, abating, modifying or altering any penalty accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any Ordinance or provision thereof in forum at the time of passage of this Ordinance.

SECTION 13. SEVERABILITY

The provisions of this Ordinance are severable and, if any provision, sentence, clause, section or parts thereof is held illegal, invalid, unconstitutional or inapplicable, it shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or part of the Ordinance or their application to other person 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, clause, section, or part had not been included therein.

SECTION 14.

This Ordinance shall be in full force and effect from and after its passage, approval and publication according to the laws of the State of Indiana. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

INTRODUCED BY /s/ Shelia M. Bergerson, Councilwoman PRESIDING OFFICER

/s/ ATTEST:/s/ Thomas F. Fedder - CITY CLERK

SEAL

Presented by me to the Mayor of the City of Michigan City, Indiana, this

day , 19 /s/ Thomas F. Fedder - CITY CLERK

Approved and signed by me this 3rd day of March, 1992

/s/ Robert J. Behler Jr.

MAYOR OF MICHIGAN CITY, INDIANA

Human Right Department Requirements, Policies, and Procedures

Equal Employment and Affirmative Action

The [Affirmative Action Ordinance #2297](#) prohibits discrimination in municipal government on the basis of race, religion, national origin, sex, and disability. It covers all employment practice, including hiring, working conditions, benefits and privileges of employment, compensation, training, and appointments for advancements. It also includes upgrading and promotions, transfers and terminations, lay-offs and recalls for all employees

This ordinance also created the EEO Officer's position and outlines duties of the same, along with the role of other city officials responsible for the plan's successful

implementation and indicates the city's active support of the principle of equal employment opportunity.

Policy

To effectuate a policy of employment of city personnel without discrimination, the city voluntarily resolves to assume a program of affirmative action. It is the city's policy to provide equal employment opportunity to all persons.

The equal employment opportunity objective of the city is to achieve, within a reasonable amount of time, an employee profile with respect to race and sex in every major job category. This objective calls for achieving full utilization of minorities and women at all levels of employment, including management.

In-House Complaint Procedure

If you feel that you have been a victim of discrimination as it applies to our policy, you should contact the EEO Coordinator of your department or the EEO office in the Human Rights Department at city hall. The EEO in-house complaint procedure was developed and implemented with the intent to resolve any in-house problems before they reach proportions warranting individuals to file formal charge which would bring about the involvement of a civil rights agency. You should also be aware that it is against the law for your employer to retaliate against you for having been involved in the complaint process in any way.

Complaint Process

The complaint of discrimination is not a lawsuit but an administrative procedure under Michigan City Human Rights Ordinance #3283. The Commission does not represent either side but represents the law and will investigate the complaint in a fair and impartial manner. All complaints are fully investigated and each side's position is given thorough consideration. At the close of the investigation, a finding will be made in favor of either the complainant or the respondent. At any time in the process, the two sides may reach a settlement.

I. The Complaint

A Commission staff member will hear the complaint and will determine whether it is within the Commission's jurisdiction.

The Commission will help draft the working of the complaint and prepare it in legal form for review, approval and notarized signature.

The complaint will receive a docket number and will be investigated by an assigned staff member, who will keep the complainant and the respondent advised of the progress of the case.

II. The Investigation

The commission's staff investigator will interview the respondent and other witnesses, and will review pertinent records and documents.

The staff investigator may ask to clarify some aspects of the complaint in the light of any new information. Any additional information should be reported to the staff investigator immediately.

The Commission's investigation may find:

1. No probable cause and move to dismiss the complaint; or
2. Probable cause and act to correct the discrimination and its effects.

III. The Conciliation

If the investigation substantiates the charges, then the respondent is required to:

1. Cease and desist from the specific discriminatory act or practice.
2. Implement whatever actions, and/or compensation the commission deems necessary to end the discrimination uncovered in the investigation.

The actual adjustment of the complaint will take place as soon as possible. The complainant and the respondent will be informed by mail of the Commission's official disposition of the case.

IV. The Public Hearing and Final Order

When there is no satisfactory conciliation, the Commission may convene a public hearing at which testimony under oath is heard, a decision rendered and an enforceable final order issued. Any party aggrieved by the final order made by the Commission shall have the right to appeal this order to the Courts for judicial review.

V. Penalties

Any respondent that engages in an unlawful discriminatory practice as defined by the Commission shall be ordered to pay actual damages.

Any person who engages in an unlawful housing practice may be subject to civil and/or criminal penalties in accordance with Indiana law.

VI. Judicial Review

If after 30 days from receipt of the Commission's findings and no request for judicial review has been requested by the respondent, and the Commission determines the respondent is not complying with its orders, the Commission may obtain a decree of a court for the enforcement of such order.

Rights and Responsibilities As A Complainant

YOU HAVE A RIGHT:

To file and pursue a charge without being harassed, intimidated or retaliated against.

To have a clear, coherent written statement of the charge.

To know the status of your case.

To have an attorney present at any stage of the process at your own expense.

To have written notice of any hearing or final action related to your case.

To appeal any Probably Cause Committee decision only if newly discoverable evidence is presented.

To obtain a full remedy, if discrimination is found.

In employment cases only, to request a Right to Sue from EEOC six months after the initial filing date. A Right To Sue can also be obtained after the issuance of the Commission's ruling.

YOU HAVE A RESPONSIBILITY:

To keep all appointment with the Commission's staff.

To supply and explain all relevant information, date, or papers to the investigator upon request.

To answer all telephone or mail inquiries from the Commission. Your case may be dismissed if you don't. These will be as convenient and as infrequent as possible.

To attend all meetings, hearings, or fact-finding conferences. The Commission will try to accommodate your schedule, if possible.

To follow your case, keep in touch, leave us all new addresses or phone changes. Inquire if there are undue delays.

As A Respondent

YOU HAVE A RIGHT:

To have a clear, coherent written statement of the charge.

To know the status of the case and who is working on it.

To have an attorney present at any stage of the process, at your own expense.

To appeal any Probable Cause Committee final decision.

YOU HAVE A RESPONSIBILITY:

To answer all Commission correspondence in the designated time frame.

Make all requests for extension of time to respond to allegations in writing.

To supply witnesses, produce and explain all relevant information, data or papers to the investigator upon request.

Not to retaliate against any individual who files a complaint or assists in an investigation of a complaint.