

JOINT ORDINANCE AND RESOLUTION OF THE CITY OF BARDSTOWN AND THE COUNTY OF NELSON, KENTUCKY, AUTHORIZING THE CREATION OF THE BARDSTOWN-NELSON COUNTY COMMISSION ~~OF~~ ON HUMAN RIGHTS CONSISTING OF TEN MEMBERS TO BE APPOINTED BY THE COUNTY ~~JUDGE~~ JUDGE-EXECUTIVE OF NELSON COUNTY AND THE MAYOR OF BARDSTOWN' ESTABLISHING THEIR TERMS, POWERS AND DUTIES; ESTABLISHING PUBLIC POLICY RELATING TO FAIR TREATMENT AND EQUAL OPPORTUNITY; CREATING A METHOD OF FUNDING FOR THE COMMISSION; RELATING TO PROPERTY RIGHTS AND OWNERSHIP, AND ESTABLISHING A RELATIONSHIP WITH THE KENTUCKY COMMISSION ON HUMAN RIGHTS.

THIS ORDINANCE ~~SUPERCEDES~~ SUPERSEDES THE ORDINANCE PREVIOUSLY ~~INACTED~~ ENACTED IN 1966 BY JOINT RESOLUTION OF THE BARDSTOWN CITY COUNCIL AND FISCAL COURT OF NELSON COUNTY;

JOINT ORDINANCE AND RESOLUTION OF THE CITY OF BARDSTOWN AND THE COUNTY OF NELSON, KENTUCKY, FOR THE BARDSTOWN-NELSON COUNTY COMMISSION ON HUMAN RIGHTS.

BE IT ORDAINED BY THE CITY COUNCIL OF BARDSTOWN AND THE COUNTY OF NELSON, KENTUCKY, AND BE IT ORDERED BY THE FISCAL COURT OF NELSON COUNTY, KENTUCKY AS FOLLOWS:

WHEREAS it is the public policy of the Commonwealth of Kentucky to encourage fair treatment and equal opportunity for all persons regardless of race, color, religion, national origin, sex, ~~or age between the age of forty (40) and seventy (70) (40 and over), familial status,~~ disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived).

WHEREAS the General Assembly of Kentucky has enacted the Kentucky Civil Rights Act (KRS 344) which confirms the power of all Kentucky cities and counties to adopt ordinances establishing commissions on human rights; and the Governor and State Commission on Human Rights have urged the formation of local commissions on human rights that would promote equal opportunity for all in Kentucky cities and counties; and

WHEREAS discrimination against persons on racial, religious, ethnic, sex, or age grounds is detrimental to the social health of the city and county and produces harmful effects on the economy of the city and county, resulting in unused human resources and lower earning power for portions of the population; and

WHEREAS such discrimination represents an affront to the dignity of the individuals against whom it is directed, and is inconsistent with the democratic principles embodied in the Constitution of the United States and the Commonwealth of Kentucky; and

WHEREAS such discrimination intensified group conflicts which do grave injury to the public health and welfare, and

WHEREAS the Nelson County Fiscal Court held a first reading on the proposed Ordinance on July 22, 1986 and ordered the same to be advertised for a second reading. At the meeting held on September 16, 1986 and after due consideration, upon a motion by Magistrate Joe Eddie Mouser, second of Magistrate Bernard Ice,

NOW THEREFORE

In order to create an instrumentality of the city and county that will assume active leadership in the community in promoting equal opportunity for all persons;

BE IT ORDAINED BY THE LEGISLATIVE BODY OF THE CITY AND COUNTY:

POLICY: It is the public policy of the city and county to promote fair treatment and equal opportunity for all persons regardless of race, color, religion, national origin, sex, ~~or age between the age of forty (40) and seventy (70) (40 and over)~~, familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived).

(a)

(b) DEFINITIONS: As used in this ordinance:

- (a) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice or differentiation or preference in the treatment of a person because of race, color, religion, national origin, sex, ~~or age between the age of forty (40) and seventy (70) (40 and over)~~, familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived).
- (b) "Commission" means the Bardstown-Nelson County Commission on Human Rights.
- (c) "Commissioner" means a member of the Commission.
- (d) "Person" includes one or more individuals, labor unions, joint apprenticeships committees, partnerships, associations, corporations, local representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, or other legal or commercial entity; the city and county or any of its agencies.

The word "city" when used hereinafter means the City of Bardstown. The ~~work~~ word "county" when used hereinafter means the County of Nelson.

(c) COMMISSION ON HUMAN RIGHTS: There is hereby created a Bardstown-Nelson County Commission on Human Rights. It shall consist of Ten (10) members who shall be appointed on a nonpartisan basis and shall be broadly representative of employers, proprietor, trade unions, human rights groups, and the general public.

The Mayor of Bardstown shall appoint five (5) members of which one (1) shall be appointed for two years and four (4) for three years. However, after the first appointment, all subsequent appointments shall be for a term of three years.



The County ~~Judge~~ Judge-Executive of Nelson County shall appoint (5) members of which one (1) shall be appointed for two years and four (4) for three years. However, after the first appointment, all subsequent appointments shall be for a term of three years.

Any vacancies which occur shall be filled by appointment by the officer who appointed the vacating member.

No elected or appointed city or county official shall be a member of the Commission and members of the ~~commission~~ Commission shall serve without compensation. A member of the Commission shall be eligible for reappointment.

(d) FUNCTIONS:

- (a) The Commission shall encourage fair treatment and equal opportunity for all persons regardless of race, color, religion, national origin, sex, or age ~~between the age of forty (40) and seventy (70) (40 and over)~~, race, color, religion, national origin, sex, or age ~~between the age of forty (40) and seventy (70) (40 and over)~~, ~~familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived)~~ and shall promote mutual understanding and respect among all economic, social, racial, religious, sex, age, and ethnic groups; and shall endeavor to eliminate discrimination against, and antagonism between religious, racial, sex, age, and ethnic groups and their members.
- (b) The commission shall administer such enforceable ordinances forbidding discrimination as the legislative body of the city and county may enact.

(e) POWERS AND DUTIES: In performing its functions, the Commission shall have the following powers and duties:

- (a) To employ such personnel as are necessary to carry out the work of the ~~commission~~ Commission within the limits of the funds made available.
- (b) To conduct or arrange for research projects and studies into and publish reports on discrimination and progress in equal opportunity in the community.
- (c) To accept gifts or bequests, grants, or other payments, public or private, to help finance its activities.
- (d) To receive, initiate, investigate, seek to conciliate, and hold hearings on complaints alleging discrimination.
- (e) To recommend methods for elimination of discrimination and intergroup tensions, and to use its best efforts to secure compliance with its recommendations.
- (f) To refer formal complaints of discrimination to the Kentucky Commission on Human Rights where full legal remedies including back pay and damages for embarrassment and humiliation may be obtained. The Commission members and staff shall assist complainants in filing such complaints.
- (g) To cooperate with other intergroup relations agencies, both public and private, on the local, state, and national level in performing its functions under this ordinance and resolution.

- (h) To cooperate with the various departments, agencies, and boards of the city and county and of the Commonwealth in effectuating the purposes of this ordinance and resolution.
  - (i) To enlist the support of civic, labor, religious, professional, educational organizations and institutions in the community activities and programs what will further the goals of this ordinance or resolution.
  - (j) To organize community committees and councils that will work toward the goals of this ordinance and resolution.
  - (k) To recommend legislation to the city and county legislative body and modes of executive action to the Mayor and County ~~Judge~~ Judge-Executive that will effectuate the purpose of this ordinance and resolution.
  - (l) To submit an annual report of its activities and of the progress and problems in intergroup relations in the community to the Mayor and County ~~Judge~~ Judge-Executive and the city and county legislative body.
  - (m) To adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this ordinance and resolution.
- (f) COOPERATION OF CITY AND COUNTY DEPARTMENTS: The services of all other city and county departments, agencies, and boards shall be made available to the Commission upon its request. Information in the possession of any city and county department, agency, or board shall be furnished to the Commission upon its request, and to the extent permitted by law.
- (g) ELECTION OF OFFICERS: The Commission shall annually elect a ~~Chairman~~ Chair and ~~Vice-Chairman~~ Vice-Chair, a ~~Secretary-Treasurer~~ Secretary, and Treasurer, and such other officers as it deems necessary. The ~~Chairman~~ Chair of the Commission shall appoint such committees as the Commission may deem necessary in order to carry out.
- (h) EXPENDITURES: City and county may appropriate a sum during the fiscal year of each to be expended by the ~~commission~~ Commission to carry out this agreement: the ~~commission~~ Commission shall submit its proposed budget to city and county for the coming fiscal ~~years~~ year in accordance with the laws and regulations prescribed for or established by each for budgetary matters.
- (i) OFFICE SPACE: The Mayor and County ~~Judge~~ Judge-Executive may provide suitable office space and facilities for the Commission if such is available.
- (j) PROPERTY RIGHTS: City and ~~County~~ county shall have an undivided interest as joint tenants without right of survivorship in all property of any kind whatsoever acquired by the ~~commission~~ Commission. The portion of the undivided interest of the city and county in such property shall be in the same ratio as their respective cumulative appropriations bear to the total appropriations of both to the ~~commission~~ Commission. At the termination of the agreement, city and county shall divide the ~~commission~~ Commission property or the proceeds for any sales thereof in accordance with their respective interests established by this section. Nothing in this agreement shall prevent the ~~commission~~ Commission from leasing, or borrowing property to further the purposes of this agreement.

**Comment [NM1]:** It appears the rest of this sentence is missing.



- (k) PROPERTY OWNERSHIP: All property, real or personal, tangible, or intangible, shall be acquired, held, and disposed of the ~~Bardstown, Nelson~~ Bardstown-Nelson County Commission on Human Rights.
- (l) RELATIONSHIP WITH KENTUCKY COMMISSION ON HUMAN RIGHTS: The Commission shall cooperate with the Kentucky Commission on Human Rights wherever possible to effectuate compliance with state laws, and when requested shall act in an advisory capacity to the state commission. The Commission is authorized to enter into cooperative working agreements with the Kentucky Commission on Human Rights whenever enforceable ordinances (resolutions) forbidding discrimination are enacted which are in conformity with state law.
- (m) SEVERABILITY: If any provision of this ~~Ordinance~~ ordinance (resolution) or the application of any provisions or provisions to any person or circumstances shall be held invalid, the remainder of the ordinance (resolution) or the application of the ordinance (resolution) to other persons or circumstances shall not be affected thereby.

ARTICLE I. Policy

It is the policy of the city and county to safeguard all individuals within the city and county from discrimination because of race, color, religion, national origin, sex, ~~or age between the age of forty (40) and seventy (70) (40 and over)~~, familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived) in connection with places of public accommodation, resort, or amusement; employment and housing; thereby to protect their interest in personal dignity and freedom from humiliation, to make available to the city and county their full productive capacities, and to preserve the public safety, health, and general welfare.

ARTICLE II. Discrimination in Place of Public Accommodation, Resort, or Amusement

Section 1.

In this article, "Places of public accommodation, resort, or amusement" includes any place, store, or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which is supported directly or indirectly by government funds; except that (a) a private club is not a place of public accommodation if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests; and (b) "places of public accommodation, resort, or amusement" does not include a rooming or boarding house containing not more than one room for rent or hire and which is within a building occupied by the proprietor as his or her residence.

Section 2.

Except as otherwise provided in this article, it is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement, as defined in this article, on the grounds of race, color, religion, ~~or national origin, sex, age~~ (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived).

Section 3.

**Comment [NM2]:** Originally this section did not mention sex and age. Was that an oversight or were they left off for some legitimate reason? Same is true in the next section (3) below.

It is an unlawful practice for a person, directly or indirectly, to publish, circulate, issue, display, or mail, or cause to be published, circulated, issued, displayed, or mailed a written, printed, oral, visual communication, notice, or advertisement, which indicates that the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement will be refused, withheld from or denied an individual on account of his race, color, religion, ~~or~~ national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived), or that the patrons of, or presence at a place of public accommodation, resort, or amusement, of an individual on account of his race, color, religion, ~~or~~ national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived), is objectionable, unwelcome, unacceptable, or undesirable.

Section 4.

Denial because of sex, of equal enjoyment of restaurants, hotels, motels, or facilities supported by government funds prohibited;

- (1) It shall be an unlawful practice to deny an individual, because of sex, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a restaurant, hotel, motel, or any facility supported directly or indirectly by government funds.
- (2) The provision of this section shall not apply to:
  - (a) Restrooms, shower rooms, bath houses, and similar facilities which are in their nature distinctly private;
  - (b) YMCA, YWCA and similar type dormitory lodging facilities;
  - (c) Hospitals, nursing homes, penal or similar facilities, to require that men and women be in the same room.

**Comment [NM3]:** Is this section why "sex" was left off the list in Sections 2 & 3? Still doesn't answer why "age" was not listed.

ARTICLE III. Discrimination in Employment

Section 1.

In this article:

- (a) "Employer" means a person who has eight or more employees in each of twenty or more calendar weeks in the current or preceding calendar year and an agent of such a person.
- (b) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such person.
- (c) "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.



- (d) "Employee" means an individual employed by an employer, but does not include an individual employed by his parents, spouse, or child, or an individual employed to render services as a domestic in the home of the employer.
- (e) "Religion" means 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.
- (f) The terms "because of sex" and "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment related purposes, including receipts of benefits under fringe benefit programs or other persons not so affected but similar in their ability or inability to work, and nothing in this section shall be interpreted to permit otherwise.

Section 2.

It is unlawful practice for an employer

- (a) to fail or refuse to hire, or to discharge any individual or otherwise to discriminate against an individual with respect to his compensation, terms, conditions, or privileges or employment because of such individual's race, color, religion, ~~or~~ national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived).
- (b) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, ~~or~~ national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived).

Section 3.

It is an unlawful practice for an employment agency to fail or refuse to refer for employment or otherwise to discriminate against an individual because of his race, color, religion, or nation origin, or to classify or refer for employment an individual on the basis of his race, color, religion, ~~or~~ national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived).

Section 4.

It is an unlawful practice for a labor organization

- (a) To exclude or to expel from its membership, or otherwise to discriminate against a member or applicant for membership because of his race, color, religion, ~~or~~ national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived).
- (b) To limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment as an individual, in any way which would deprive or tend to deprive an individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment,

because of such individual's race, color, religion, national origin, sex, or between the age of 40 and 70.

- (c) To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

#### Section 5.

It is an unlawful practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published a notice or advertisement relating to employment by such an employer or membership in any classification or referral for employment by such an employer or membership in or any classification or referral for employment by the employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, or national origin, except that such notice or advertisement may indicate a preference, limitation, or specification based on religion or national origin when religion or national origin is a bona fide occupational qualification for employment.

#### Section 6.

Notwithstanding and provisions of this action it is not an unlawful practice for

- (a) An employer to hire and employ employees, or an employment agency to classify its membership or to classify or refer for employment an individual or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ an individual in any such program, on the basis of his religion or national origin where such is a bona fide occupational qualification reasonably necessary for the normal operation of that particular business or enterprise.
- (b) A religious corporation, association, or society to employ an individual on the basis of his religion to perform work connected with the carrying on by such corporation, association, or society of its religious activity.
- (c) A school, college, university, or other educational institution to hire and employ employees of a particular religion where the school, college, university, or other educational ~~institutional~~ institution is in whole or substantial part owned, supported controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of the school, college, university, or other educational institution is directed toward the propagation of a particular religion and the choice of employees is calculated by such organization to promote the religious principles for which it is established or maintained.

#### Section 7.

Notwithstanding any other provision of this article, it is not an unlawful practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality or production to an employee who works on a different location, provided that such differences are not the result of an intention to discriminate because of race, color, religion, or national origin, nor is it an unlawful practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended,



or used to discriminate because of race, color, religion, ~~or~~ national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived).

#### Section 8.

Preference because of imbalance in employment not required.

- (1) Nothing contained in this chapter requires an employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to an individual or to a group because of the race, color, religion, ~~or~~ national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived) of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, or age between 40 and 70 employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization or admitted to, or employed in, an apprenticeship or other training program, in comparison with the total number ~~of or~~ percentage of persons of such race, color, religion, ~~or~~ national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived) in the state or community, section, or other area, or in the available workforce in the state or a community, section, or other area.
- (2) Nothing contained in this chapter regarding age prohibits:
  - (a) Minimum hiring ages otherwise provide by law.
  - (b) State compliance with federal regulations.
  - (c) Termination of the employment of any person who is unable to perform his duties.
  - (d) Any physical or medical examinations of applicants or employees which an employer required to determine fitness for the job or position sought or held.
  - (e) An employer, labor organization, or employment agency from observing the terms of a bona fide seniority system or a bona fide employee benefit plan such as a retirement, pension, or insurance plan which is not a subterfuge to evade the purposes of this chapter, except that no such employee benefit plan shall excuse the failure to hire any individual.

### ARTICLE IV. Discrimination in Housing

#### Section 1.

In this article

- (a) "Real Property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.
- (b) "Housing accommodation" means a building, structure, or part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied as the home or residence of one or more individuals.

- (c) "Real estate broker" or "real estate salesman" means an individual whether licensed or not, who, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate such an activity; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate a loan secured by mortgage or other encumbrances, upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contacting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listings in a publication issued primarily for such purposes; or an individual employed by or acting on behalf of any of these.
- (d) "Real Estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the county of any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental, or lease of real estate; or an individual employed by or acting on behalf of any of these.

Section 2.

It is an unlawful practice for a person having the right to sell, exchange, rent, or lease any property, or for a real estate broker, real estate ~~salesman~~ salesperson, real estate operator, or an individual employed by or acting on behalf of any of these:

- (a) to refuse to sell, exchange, rent, or lease, or otherwise deny to or withhold real property for an individual because of his race, color, religion, or national origin; or
- (b) to discriminate against an individual because of his race, color, religion, or national origin in the terms, conditions, or privileges of the sale, exchange, rental, or lease of real property or in the furnishing of facilities or services in connection therewith; or
- (c) to refuse to receive or transmit a bona fide offer to purchase, rent, or lease real property from an individual because of his race, color, religion, or national origin; or
- (d) to refuse to negotiate for the sale, rental, or lease of real property to an individual because of his race, color, religion, or national origin; or
- (e) to represent to an individual that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to refuse to permit an individual to inspect real property because of his race, color, religion, or national origin; or
- (f) to print, circulate, post, or mail or cause to be printed, circulated, posted, or mailed an advertisement or sign, or to use a form of application for the purchase, rental, or lease of real property, or to make a record or inquiry in connection with the prospective purchase, rental or discrimination to race, color, religion, or national origin, or an intent to make such a limitation, specification, or discrimination; or

**Comment [NM4]:** This highlighted part does not read right. Is it "due to race, ..." rather than just "to race,..."? Or is it "because of" race, ...?



- (g) to offer, solicit, accept, use or retain a listing of real property for sale, rental, or lease with the understanding that an individual may be discriminated against in the sale, rental, or lease of that real property or in the furnishing of facilities or services in connection therewith because of his race, color, religion, ~~or~~ national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived); or
- (h) otherwise to deny or withhold real property from an individual because of his race, color, religion, ~~or~~ national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived).

### Section 3.

The provisions of this article to not apply

- (a) to the rental of a housing accommodation in a building in which contains housing accommodations for not more than two families living independently of each other, if the owner or a member of his family resides in one of the housing accommodations.
- (b) to the rental of a portion of a housing accommodation by the occupant of the housing accommodation, or by the owner of the housing accommodation if he or a member of his family resides therein;
- (c) to a religious institution or to an organization operated for charitable or educational purposes which is operated, supervised, or controlled by a religious corporation, association, or society, to the extent that the religious corporation, association, or society, limits or gives preferences in the sale, lease, rental, assignment, or sublease of real property to individuals of the same religion, or makes a selection of buyers, tenants, leases, assignees or subleases that is calculated by such religious corporation, association, or society to promote the religious principles for which it is established or maintained.
- (d) Nothing in this chapter shall be construed to affect the legal rights of a private individual homeowner to dispose of his property through private sale without the aid of any real estate operator, broker, or ~~salesman~~ salesperson and without advertising or public display.
- (e) Nothing in this chapter shall require a real estate operator to negotiate with any individual who has not shown evidence of financial ability to consummate the purchase or rental of a housing accommodation.

### Section 4.

- (1) It shall be an unlawful practice for any person to engage in any of the activities made an unlawful practice by this article because of an individual's sex.
- (2) Nothing in this section shall apply to:
  - (a) The YMCA, YWCA, and similar type single sex dormitory rental properties, including but not limited to those dormitories operated by institutions of higher education;
  - (b) A landlord who refused to rent to an unmarried couple of opposite sex; or

- (c) A landlord who chooses to rent only to men or only to women; provided that the landlord engages in the rental to no more than ten (10) persons or of no more than ten (10) self-contained units in an owner occupied housing accommodation; or
- (d) Rooms or rental units where tenants would be required to share common bath or kitchen facilities.

Section 5.

It is unlawful practice for a person in the business of insuring against hazards to refuse to enter into, or discriminate in the terms, conditions, or privileges of, a contract of insurance against hazards to a housing accommodation because of the race, color, religion, national origin, or sex of persons owning, or residing in or near the housing accommodation.

ARTICLE V. Unlawful Financial Practices

Section 1.

In this chapter:

- (1) "Financial Institution" means bank, banking organization, mortgage company, insurance company, or other lender to whom application is 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.
- (2) "Credit Transaction" means any open or closed end credit transaction whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the course of the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations, or other financial lending institutions of whatever nature, stock brokers, or by merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchase of property or services therefrom may be deferred.

Section 2.

It is unlawful for a financial institution or individual employed by or acting on behalf of a financial institution;

- (a) to discriminate against an individual because of the race, color, religion, ~~or~~ national origin, ~~sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived)~~ of the individual or the present or prospective owner, tenant, or occupant of that real property 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 service in connection therewith; or
- (b) to use a form of application for financial assistance or to make or keep a record or inquiry in connection with application for financial assistance which indicates directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, ~~or~~



national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived), or an intent to make such a limitation, specification, or discrimination.

- (c) To discriminate by refusing to give full recognition, because of sex, to the income of each spouse where both spouses become or are prepared to become joint or several obligors in the real estate transactions.

### Section 3.

- (1) It shall be an unlawful practice for any person, whether acting for himself or another, in connection with any credit transaction because of race, color, religion, ~~or~~ national origin, sex, age (40 and over), familial status, disability, genetic information, sexual orientation (real or perceived), or gender identity (real or perceived) to:
  - (a) deny credit to any person;
  - (b) increase the charges or fees for or collateral required to secure any credit extended to any person;
  - (c) restrict the amount or use of credit extended or impose different terms or conditions with respect to the credit extended to any person or any item or service related thereto;
  - (d) attempt to do any of the unlawful practices defined in this section.
- (2) The provisions of this section shall not prohibit any party to a credit transaction from considering the credit history of any individual applicant.
- (3) The provision of this section shall not prohibit any party to a credit transaction from considering the application of Kentucky law on dower, curtesy, descent, and distribution to the particular case or from taking reasonable action thereon.

## ARTICLE VI. Complaints of Discrimination; Procedure; Enforcement.

### Section 1.

- (1) An individual claiming to be aggrieved by an unlawful practice, or a member of the ~~commission~~ Commission may file with the ~~commission~~ Commission, a written sworn complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the ~~commission~~ Commission to identify the persons charged (hereinafter the respondent). The ~~commission~~ Commission staff or a person designated pursuant to its rules shall promptly investigate the allegations of unlawful practice set forth in the complaint and shall furnish the Respondent with a copy of the complaint within seven days of its filing with the Commission. The complaint must be filed within one hundred eighty (180) days after the alleged unlawful practice occurs.
- (2) The commission shall make a prompt and full investigation of each complaint.
- (3) If it is determined that there is no probable cause to believe that the respondent has engage in an unlawful practice, the Commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the Complainant, Respondent, and such other persons as the Commission may deem necessary and proper.

- (4) If it is determined, after investigation, that there is probable cause to believe that the Respondent has engaged in an unlawful practice, the ~~commission~~ Commission shall endeavor to eliminate the alleged unlawful practice by conference, conciliation, and persuasion. The terms of a conciliation agreement reached with a Complainant and Respondent may require the Respondent to refrain from the commission of unlawful discriminatory practices in the future and make such further provisions as may be agreed upon between the ~~commission~~ Commission or its staff and the Complainant and Respondent. If a conciliation agreement is entered into, the ~~commission~~ Commission shall issue and serve on the Complainant and Respondent, an order stating its terms. A copy of the order may be delivered to such other public officers and persons as the ~~commission~~ Commission deems proper. Except for the terms of the conciliation agreement, neither the ~~commission~~ Commission nor any officer or employee thereof shall make public, without the written consent of the Complainant and Respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion whether or not there is a determination of probable cause or a conciliation agreement.
- (5) At the expiration of one (1) year from the date of a conciliation agreement, and at other times in its reasonable discretion, the ~~commission~~ Commission staff may investigate whether the terms of the agreement have been and are being complied with by the Respondent. Upon a finding that the terms of the agreement are not being complied with by the Respondent, the Commission shall take such action as it deems appropriate to assure compliance.
- (6) At any time after a complaint is filed, the ~~commission~~ Commission may file an action in the circuit court in a county in which the subject of the complaint occurs, or in a county in which a Respondent resides or has his principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings before the Commission. Such temporary relief may include an order or decree restraining the Respondent from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant such temporary relief or restraining order as it deems just and proper.
- (7) Insofar as they are not inconsistent with the procedure provided by this ordinance, the Kentucky Rules of Civil Procedure shall apply.

#### ARTICLE VII. Hearing, Notice, and Procedure

- (1) Within sixty (60) days after a Complaint is filed, unless the Commission has issued an order dismissing the complaint or stating the terms of a conciliation agreement, the ~~commission~~ Commission shall serve on the Respondent, by registered or certified mail, a written notice, together with a copy of the Complaint, requiring the Respondent to answer the allegations of the complaint at a hearing before a quorum of the members of the Commission, at a time and place specified in the notice. A copy of the notice shall be furnished to the Complainant.
- (2) The Respondent may file an answer with the ~~commission~~ Commission by registered or certified mail not less than five (5) days before the hearing date. No order shall be issued unless the Respondent has had the opportunity of a hearing on the complaint.



- (3) The case in support of the complaint shall be presented before the commission Commission by the Complainant or by a member of the commission Commission as the commission Commission shall deem appropriate. Efforts at conference, conciliation, and persuasion shall not be received in evidence.
- (4) A Respondent who has filed an answer or whose default in answering has been set aside for good cause shown may appear at the hearing, may examine and cross-examine witnesses and the Complainant, and may offer evidence. The Complainant, and ~~in~~ at the discretion of the commission Commission, any person may intervene, examine, and cross-examine witnesses, and present evidence.
- (5) If the Respondent fails to answer the complaint, the commission Commission may enter his default. Unless the default is set aside for good cause shown, the hearing may proceed on the evidence in support of the complaint.
- (6) Testimony taken at the hearing shall be under oath and recorded.

#### ARTICLE VIII. Findings of Commission; Orders; Nature of Affirmative Action

- (1) If the commission Commission determines that the Respondent has not engaged in an unlawful practice, the commission Commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the Complaint. A copy of the order shall be delivered to the Complainant, the Respondent, and such other public officers and persons as the commission Commission deems proper.
- (2) If the commission Commission determines that the Respondent has engaged in an unlawful practice, the commission Commission shall issue an order requiring the Respondent to cease and desist from the unlawful practice and to take such affirmative actions in the judgment of the commission Commission will carry out the purposes in this chapter. A copy of the order shall be delivered to the Respondent, the Complainant, and to such other public officers and persons as the commission Commission deems proper.
- (3) Affirmative action ordered under this section may include but is not limited to:
  - (a) Hiring, reinstatement, or upgrading of employees with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable.
  - (b) Admission or restoration of individuals to union membership, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs.
  - (c) Admission of individuals to a place of public accommodation, resort, or amusement.
  - (d) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the Respondent.
  - (e) Reporting as to the manner of compliance.
  - (f) Posting notices in conspicuous places in the Respondent's place of business in form prescribed by the commission Commission.

- (g) Sale, exchange, lease, rental, assignment, or sublease of real property to an individual.
  - (h) Payment to the Complainant of damages for injury caused by an unlawful practice including compensation for humiliation and embarrassment, and expense incurred by the Complainant in obtaining alternative housing accommodations, and for other costs actually incurred by the Complainant as a direct result of such unlawful practice.
- (4) The commission Commission may publish or cause to be published the names of persons who have been determined to have engaged in an unlawful practice.

ARTICLE IX. Judicial Review, Scope, Procedure, Order for Enforcement.

- (1) A complainant, respondent, or intervenor aggrieved by an order of the commission Commission, including an order dismissing a complaint or stating the terms of a conciliation agreement may obtain judicial review, and the commission Commission may obtain an order of the court for enforcement of its order, in a proceeding brought in the circuit court in the county in which the alleged unlawful practice which is the subject of the order or complaint occurs or in which the Respondent resides or has his principal place of business.
- (2) The proceeding for review or enforcement is initiated by filing a Complaint in the court. Copies of the complaint shall be served upon all parties of record. Within thirty (30) days after the service of the complaint upon the commission Commission or its filing by the commission Commission, or within such further time as the court may allow, the commission Commission shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including a transcript of testimony, which need not be printed. By stipulation of all parties to the review proceeding, the record may be shortened. The findings of fact of the commission Commission shall be conclusive unless clearly erroneous in view of the probative and substantial evidence on the whole record. The court shall have power to grant such temporary relief or restraining order as it deems just, and to enter an order enforcing, modifying, and enforcing as modified, or setting aside in whole or in part the order of the commission Commission, or remanding the case to the commission Commission for further proceedings.
- (3) If the commission Commission has failed to schedule a hearing in accordance with Article VII or has failed to issue an order within 180 days after the Complaint is filed, the Complainant, Respondent, or an intervenor may petition the circuit court in a county in which the alleged unlawful practice set forth in the complaint occurs or in which the Petitioner resides or has his principal place of business for an order directing the commission Commission to take such action. The court shall follow the procedure set forth in subsection (2) so far as applicable.
- (4) The Court shall not consider any matter not considered by, nor any objection not raised before the commission Commission, unless the failure of a party to present such matter to or raise such objection before the commission Commission is excused because of good cause shown. A party may move the court to remand the case to the commission Commission in the interests of justice for the purpose of adducing additional specified and



material evidence and seeking findings thereon, provided he shows good cause for the failure to adduce such evidence before the ~~commission~~ Commission.

- (5) The jurisdiction of the circuit court shall be exclusive and its final judgment or decree shall be subject to review by the Court of Appeals as provided by the Rules of Civil Procedure.
- (6) A proceeding under this section must be initiated within thirty (30) days after a copy of the Order of the ~~commission~~ Commission is received, unless the ~~commission~~ Commission is the petitioner or the petition is filed under subsection (3). If no proceeding is so initiated, the ~~commission~~ Commission may obtain a decree of the court for enforcement of its order upon showing that a copy of the petition for enforcement was served on the Respondent.

#### ARTICLE X. Investigations, Subpoenas.

##### Section 1.

- (1) In connection with an investigation of a Complaint, the ~~commission~~ Commission at any reasonable time may request access to premises, records, and documents relevant to the complaint and the right to examine, photograph, and copy evidence.
- (2) Every person subject to this ordinance shall (a) make and keep records relevant to the determination of whether unlawful practices have been or are being committed, (b) preserve such records for such periods, and (c) make such reports therefrom, as the ~~commission~~ Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this ordinance of the regulations or orders thereunder.
- (3) So as to avoid undue burdens on persons subject to this chapter, records, and reports required by the ~~commission~~ Commission under this section shall conform as near as may be to similar records and reports required by federal law and the laws of other states and to customary record keeping practice.
- (4) It is unlawful for a ~~commission~~ Commission or employee of the ~~commission~~ Commission to make public with respect to a particular person without his consent information obtained by the ~~commission~~ Commission pursuant to its authority under this section except as reasonably necessary to the conduct of a proceeding under this chapter.
- (5) If a person fails to permit access, examination, photographing, or copying or fails to make, keep, or preserve records or make reports in accordance with this section, the circuit court for the county in which such person is found, resides, or has his principal place of business, upon application of the ~~commission~~ Commission, may issue an order requiring compliance.

**Comment [NM5]:** This comma needs to be removed to make sense.

##### Section 2.

- (1) Upon written application to the ~~commission~~ Commission a party to a proceeding is entitled as of right to the issue of subpoenas in the name of the ~~commission~~ Commission by an individual designated pursuant to its rules requiring attendance and the giving of testimony and the production of documents. A subpoena so issued shall show on its face, the name and address of the party at whose request the subpoena was issued. On petition of the individual to whom the subpoena is directed and notice to the requesting party, the

~~commission~~ Commission or an individual designated pursuant to its rules may vacate or modify the subpoena.

- (2) Depositions of witnesses may be taken as prescribed by the Rules of Civil Procedure.
- (3) If a person fails to comply with a subpoena, the circuit court for the county in which the person is found, resides, or has his principal place of business, upon application of the ~~commission~~ Commission or the party requesting the subpoena, may issue an order requiring compliance. In any proceeding brought under this section, the court may modify or set aside the subpoena.

ARTICLE XI.

If any provision of this Ordinance is held invalid, the invalidity shall not affect the other provisions of the Ordinance.

IN TESTIMONY WHEREOF, the Mayor of the City of Bardstown and the ~~Judge~~ Judge-Executive of Nelson County subscribe their signatures in their official capacity pursuant to motion duly made and passed by the city council and fiscal court on the dates indicated hereunder.

CITY OF BARDSTOWN

NELSON COUNTY

GUTHRIE M. WELSON, Mayor

MIKE ABEL, County Judge

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

[Note: This is the County version; the City has almost exactly the same wording, but is formatted different. It uses §37.11-.99 to address the various components and puts all the definitions (17 in all) in the very beginning rather than address them in the sections to which they most apply. There are a few more places where the order in which the City lists things are not the same, but as far as I could tell everything in the County version is included in the City one. The City does have one more that is missing completely in the County version and that is Penalty. It reads as follows:

§37.99 Penalty. Any person who violates any provision of this chapter and resolution shall be guilty of a misdemeanor and shall be subject to a fine not exceeding \$500 or imprisonment for 30 days, or both. (Ord. 6-14-66; Am. Ord. --, passed -- )

Do we want to include this penalty wording that is completely missing from the County version? You can see the whole City version at <http://www.cityofbardstown.org/pdfs-ordinances/Chapter%2037.pdf> ]

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Matthew