

**ORDINANCE 199-94 and 201-99**

**AN ORDINANCE RELATING TO DISCRIMINATION**

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BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Sections 2-26 through 2-32 of Article II of Chapter 2 of the Code of Ordinances, Lexington-Fayette Urban County Government, be and hereby are enacted to read as follows:

**Sec. 2-26. Composition; appointment, term.**

- (1) The Lexington-Fayette Urban County Human Rights Commission established pursuant to the Inter-Local Cooperation Agreement between the City of Lexington and the Fiscal Court of Fayette County and Section 7.17 of the Urban County Charter shall be composed of fourteen (14) members, who are as nearly as possible representative of the several social, economic, cultural, ethnic and racial groups which compose the population of the County. Such members may reside anywhere in the County.
- (2) The appointment and term of the commission members shall be as provided in Section 7.02 of the Urban County Charter.

**Sec. 2-27. Administrative provisions.**

- (1) The Commission shall elect a chairperson, a vice-chairperson, a secretary and a treasurer from among its members.
- (2) All orders of the Commission shall be signed by the chairperson or vice-chairperson and attested by the secretary.
- (3) A simple majority of the total membership of the Commission shall constitute a quorum. The members of the Commission shall observe the Code of Ethics contained in Article XVI of the Urban County Charter. Any member of the Commission who has a disqualifying interest shall disclose such interest on the record of the Commission and shall disqualify himself from participating in any decision or vote relating thereto. A disqualified member may remain for quorum purposes only but shall not participate in any discussion or vote on the subject. A simple majority vote of all members present, where there is a properly constituted quorum, shall be necessary to transact any official business; except that in adopting bylaws, rules or regulations or in any elections, a simple majority of the total membership shall be necessary.
- (4) The Commission may appoint one (1) or more of its members to act as a hearing examiner or examiners to preside over hearings and make recommendations to the Commission based upon the record of proceedings, including testimony which shall be recorded in a form prescribed by the Commission.

- (5) The Commission shall meet as often as it deems necessary, but it shall not meet less than once each month.
- (6) Members shall serve without compensation. However, subject to the approval of the Commission and within the limitation imposed by the budget, they shall be allowed their necessary expenses, attendant upon their duties.
- (7) The chairperson of the Commission may appoint such committees as the rules of the Commission shall provide and such other committees from time to time as the Commission may deem necessary in order to carry out its purposes.

**Sec. 2-28. Executive director; other employees.**

- (1) The Commission shall employ an executive director with training and experience in intergroup and interracial relations, whose qualifications and compensation shall be approved by the Mayor. The executive director shall coordinate the activities of the Commission and its staff.
- (2) The Commission may, within the limits of funds made available, employ such attorneys, hearing examiners, clerks and other employees and agents as it deems necessary, and fix their compensation.

**Sec. 2-29. Report; fiscal year.**

- (1) The Commission shall submit an annual report as of July 1 of each year to the Mayor and Council, which report shall contain a summary of its activities for the preceding year, a physical inventory of all property, and audit of all receipts, expenditures and funds on hand.
- (2) The Commission shall prepare, annually, a budget for the ensuing fiscal year and submit by the date specified the same to the Mayor and Council for their approval.

**Sec. 2-30. Duties.**

- (1) The Commission shall endeavor to promote and secure mutual understanding and respect among all economic, social, religious and ethnic groups in the County and shall act as conciliator in controversies involving intergroup and interracial relations.
- (2) The Commission shall cooperate with Federal, state and other local agencies in efforts to develop harmonious intergroup and interracial relations and shall endeavor to enlist the support of civic, religious, laborer and commercial groups and leaders dedicated to the improvement of human relations and the elimination of discriminatory practices.
- (3) The Commission shall receive complaints, conduct investigations, hold hearings and have such studies made as will enable the Commission to carry out the purposes of this Article and the Kentucky Civil Rights Act [K.R.S. 344.010 et seq].

**Sec. 2-31. Adoption of state law.**

- (1) The provisions of KRS 207.130(1); 344.010(1), (4)-(16); 344.020; 344.030; 344.040; 344.045; 344.050; 344.060; 344.070; 344.080; 344.090; 344.100; 344.110; 344.120 and such discrimination on the basis of sex; 344.130; 344.140; 344.145; 344.280; 344.360; 344.362; 344.365; 344.367; 344.370; 344.375; 344.380; 344.400, and 344.680 as they relate to discrimination in employment, public accommodations and housing on the basis of race, color, religion, national origin, sex, disability or age forty (40) and over; in addition to the above, to discrimination in public accommodations and housing on the basis of familial status, and as they are in effect on July 15, 1994, are adopted by the urban county government.
- (2) The Commission is given jurisdiction over all complaints for violation of those laws adopted in subsection (1) of this section.
- (3) In the enforcement of this section, the Commission shall have the powers set forth in KRS 344.320; 344.330; 344.340 and 344.350, as they are in effect on July 15, 1994, as well as the power to meet and exercise its powers at any place within the county and to adopt, promulgate, amend and rescind rules and regulations to effectuate the purposes of this article, including regulations requiring the posting of notices prepared or approved by the Commission.

**Sec. 2-32. Procedures.**

- (1) The Commission shall follow the same procedures as the Kentucky Commission on Human Rights as set forth in KRS 344.200(6), pending final determination of proceedings hereunder; 344.230(3), (4); 344.250(1), (6), (7); 344.260(1), (3), (4); 344.385; 344.600 except as it relates to actions taken by the attorney general of Kentucky; 344.605; 344.610; 344.615; 344.620; 344.625; 344.630; 344.635; 344.640(1), (3)-(7); 344.645; 344.670; and 344.675(1), (3), (4); as they are in effect on July 15, 1994. In addition, the Commission shall follow the procedures set out in subsection (2) hereof.
- (2) Unless otherwise required by law, the following shall apply to complaints filed with the Commission:
  - (a) An individual claiming to be aggrieved by an unlawful practice, or a member of the Commission, may file with the Commission a verified 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 to identify the persons charged, hereinafter "the respondent". The complaint must be filed within one hundred eighty (180) days after the alleged unlawful practice occurs.
  - (b) The Commission shall make a prompt and full investigation of each complaint, unless a voluntary settlement agreement is entered into before a determination is reached.
  - (c) If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the Commission shall issue an order dismissing the complaint.

- (d) If it is determined, after investigation, that there is probable cause to believe the respondent has engaged in an unlawful practice, the Commission shall notify the parties of such determination and endeavor to eliminate the alleged unlawful practice by conference, conciliation and persuasion. The terms of a conciliation agreement reached with a respondent may require him 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 or its staff and the respondent.
- (e) In any case of failure to eliminate the alleged unlawful practice by means of conference, conciliation and persuasion, the Commission shall hold a public hearing to determine whether or not an unlawful practice has been committed. The Commission shall serve upon the respondent a statement of the charges made in the complaint and a notice of the time and place of the hearing. The hearing shall be held not less than ten (10) days after the service of the statement of charges. The respondent shall have the right to file an answer, to appear at the hearing in person or to be represented by an attorney, and to examine and cross-examine witnesses.
- (f) If the Commission determines that the respondent has not engaged in an unlawful practice, the Commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint.
- (g) If the Commission determines that the respondent has engaged in an unlawful practice, the Commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the unlawful practice and to take such remedial and affirmative action as in the judgment of the Commission will carry out the purposes of this article.

### **Sec. 2-33**

- (1) It is the policy of the Lexington-Fayette Urban County Government to safeguard all individuals within Fayette County from discrimination in employment, public accommodation, and housing on the basis of sexual orientation or gender identity, as well as from discrimination on the basis of race, color, religion, national origin, sex, disability, and age forty (40) and over.
- (2) For purposes of this section, the provisions of KRS 344.010 (1), (5) – (13) and (16), 344.030 (2) – (5), 344.040, 344.045, 344.050, 344.060, 344.070, 344.080, 344.100, 344.110, 344.120, 344.130, 344.140, 344.145, 344.360 (1) – (8), 344.365 (1) – (4), 344.367, 344.370 (1), (2) and (4), 344.375, 344.380, 344.400 and 344.680, as they existed on July 15, 1998, are adopted and shall apply to prohibit discrimination on the basis of sexual orientation or gender identity within Fayette County.
- (3) The Commission shall have jurisdiction to receive, investigate, conciliate, hold hearings and issue orders relating to complaints filed alleging discrimination in employment, public accommodation or housing based on the sexual orientation or gender identity of the complaining party. The Commission is authorized to use the powers and procedures listed in sections 2-31 and 2-32 to carry out the purposes of this section, except that KRS 344.385, 344.635 and 344.670 shall not apply to the enforcement of this section.

- (4) For purposes of this section, "sexual orientation" shall mean an individual's actual or imputed heterosexuality, homosexuality, or bisexuality.
- (5) For purposes of this section, "gender identity" shall mean:
  - (a) having a gender identity as a result of a sex change surgery; or
  - (b) manifesting, for reasons other than dress, an identity not traditionally associated with one's biological maleness or femaleness.
- (6) Nothing in this section shall be construed to prevent an employer from:
  - (a) enforcing an employee dress policy which may include restricting employees from dress associated with the other gender; or
  - (b) designating appropriate gender specific restroom or shower facilities.
- (7) The provisions of this section shall not apply 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 except that when such an institution or organization receives a majority of its annual funding from any federal, state, local or other government body or agency or any combination thereof, it shall not be entitled to this exemption.

Section 2 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: July 8, 1999

/s/ Pam Miller

MAYOR

ATTEST:

/s/ Liz Damrell

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: July 15, 1999-It