ORDINANCE NO. 9-15

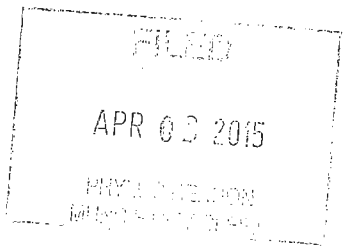
AN ORDINANCE AMENDING CHAPTER 34, DIVISION 5 OF THE CODE OF ORDINANCES OF THE CITY OF MUNCIE, INDIANA

WHEREAS, the City of Muncie Human Rights Commission Code Chapter 34 Division 5 has been created for the promotion of equal opportunity to its citizens, states the practice of denying these rights and opportunities is contrary to the principles of this City, gives protection to its citizens from unfounded charges of discrimination, and establishes a Human Rights Commission; and

WHEREAS, the addition and update of proper terms and definitions within this Division are needed to be made, ensuring these protections are in place for all of Muncie's citizens regardless of race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of Muncie, Indiana, as follows:

1. Chapter 34, Division 5 shall be amended to read as stated on the attached Exhibit A.



PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF MUNCIE, INDIANA, THIS THE 6th DAY OF April, 2015.

	Yeas	Nays	Abstained	Absent
Doug Marshall	✓			
Mark Conatser	✓			
Mary Jo Barton				✓
Brad Polk	✓			
Jerry Dishman	✓			
Julius Anderson	✓			
Linda Gregory	✓			
Nora Powell	✓			
Alison Quirk	✓			

Passed by the Common Council of the City of Muncie, Indiana, this 6th day of April, 2015.

Julius Anderson

~~Mary Jo Barton~~, President
City Council, City of Muncie

Presented by me to the Mayor for his approval, this 6 day of April, 2015.

Phyllis Reagon
City Clerk, City of Muncie

The above resolution is approved (vetoed) by me this 6th day of April, 2015.

Dennis Tyler
Mayor, City of Muncie

ATTEST:

Phyllis Reagon
Phyllis Reagon, City Clerk

This Ordinance is proposed by: Alison Quirk
Alison Quirk, Council Member

This Ordinance is approved in form by: Megan Quirk
Megan ~~B. Quirk~~, Legal Counsel

DIVISION 5. HUMAN RIGHTS COMMISSION

Sec. 34.80. Public policy and purpose.

(A) It is the public policy of the city 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 discrimination based on race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status since such discrimination is an impediment to equal opportunity. Equal education, employment opportunities, access to and use of public accommodations, and equal opportunity for acquisition of real property are hereby declared to be civil rights.

(B) The practice of denying these rights to properly qualified persons by reason of the race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status of such person is contrary to the principles of freedom and equality of opportunity and is a burden to the objective of the public policy of this city and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status is the purpose of this section.

(C) It is also the public policy of the City to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders, and lending institutions from unfounded charges of discrimination.

(D) In filling such broad purposes, the Muncie Human Rights Commission is to:

(1) Study, investigate and take action in regard to any condition having an adverse effect upon relations between persons of various race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status groups;

(2) Institute and conduct educational and other programs intended to promote the equal rights and opportunities of all persons;

(3) Solicit the cooperation the race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status groups within the community in order to improve the quality of communications and understanding within the community;

(4) Stimulate private and governmental departments and agencies to develop and foster meaningful programs in support of the objectives and purposes of the Muncie Human Rights Commission; and

(5) Ensure the equal protection of all persons and the full availability of all rights and privileges of citizenship to all persons.

Sec. 34.81 Definitions and exemptions.

(A) Definitions: For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Discrimination. Any difference in treatment based on race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status. The term "discrimination" shall also mean the exclusion of a person from or failure or refusal to extend to a person equal opportunities because of race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status. The term "discrimination" shall also mean the

promotion of segregation or separation, in any manner on the basis of race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status.

Employer. Any person employing six (6) or more individuals within the territorial limits of the City. 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, or any exclusively social club, corporation, or association that is not organized for profit.

Executive committee. The Chair, Vice Chair, and Secretary of the Muncie Human Rights Commission. The Executive Director will serve as an ex-officio member to this group. The Chair may, if necessary, invite the input of other individuals in the deliberations of the Executive Committee.

Disability. A person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

Labor organization. Any organization which exists for the purpose, in whole or part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.

Owner. Includes the Lessor, Sub-lessor, Assignor or managing agent, or other persons having the right of ownership or possession or the right to sell, rent, or lease any housing accommodation.

Person. One or more individuals, 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 or persons. The foregoing includes members, representatives, officers, directors, and agents.

Real estate operator. 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 collects rental of the use of real property of another.

(B) Exemptions.

(1) With respect to employment discrimination, employers of six (6) or less employees are exempt from the provision of this section.

(2) It shall not be deemed discrimination for any not-for-profit corporation or association organized exclusively for religious purposes or for any school, educational or charitable institution owned or conducted by or affiliated with a church or religious institution to devote its resources to its owner religion or denomination, or to give preference to members of such institution or educationally to promote exclusively the religious principles for which it is established or maintained.

(3) It shall not be deemed discrimination on account of disability for any governmental agency or not-for-profit corporation established for the purpose of offering or providing education, training or other social services and benefits to disabled persons or to give a preference to disabled persons with respect to such education, training or social services and benefits.

Sec. 34.82. Human rights commission created.

To assist in the elimination of discrimination in the city, there is hereby created a commission to be known as the Muncie Human Rights Commission.

(A) The Commission shall be composed of nine (9) members serving without compensation, except members may be reimbursed for authorized expense incurred in the performance of their duties, providing there are sufficient monies in the Human Rights Commission budget to cover such expenses.

(B) The members shall be broadly representative of the economic, racial, ethnic, age, religious, sex, sexual orientation, gender identity, disabled, ancestry, national origin, or United States military service veteran status populations in the City.

(C) Each member shall he a registered voter in, and resident of the City.

Sec. 34.83. Term of office.

(A) The term of each member shall be three (3) years commencing June 1. No member may serve more than two full consecutive terms.

(B) Future appointments. The Mayor shall appoint six (6) members and the Common Council shall appoint three (3) members. Terms of office of the present Commission are staggered. On June 1 of each year, there shall be three (3) expirations and three (3) appointments. Of these three (3) appointment, two (2) shall be made by the Mayor and one (1) shall be made by the Common Council.

(C) In the event of death, removal, or resignation of any member, the member's successor shall be appointed by the Mayor or the Common Council, whichever originally appointed the vacating member, to serve for the unexpired period of the vacated term.

(D) A member who is absent from three (3) consecutive regular meetings of the Commission or four (4) in a calendar year without good and sufficient cause, will be removed from the Commission. In this case the vacancy caused by the removal shall be filed as in other vacancies.

(E) Either the Mayor or the Common Council shall, at any time, have the right to remove any member of the Commission appointed by him or it with cause.

Sec. 34.84. Officers.

(A) The Commission shall elect a Chair at the annual meetings and shall also elect such other officers as the Commission shall desire from among their members. They shall serve until noon of the succeeding January 1.

(B) The Commission shall appoint an Executive Director who shall serve and be responsible to the Human Rights Commission for daily operations of the Commission and other related duties as assigned by the Commission.

(C) The Chair or the Executive Director act as the official representative and spokesperson for the Commission. No Commissioner shall speak for the Commission unless designated by the Chair or the Executive Director.

Sec. 34.85. Meetings.

(A) The Commission shall meet once each month at a regularly published time and place and shall hold special meetings as the Chair deems necessary or at the request of a majority of its members. All regularly scheduled meetings shall be open to the public.

(B) A quorum consisting of five (5) Commissioners must be present in order to conduct any business at the regular monthly meetings or special meetings.

Sec. 34.86. Powers and duties.
The Commission shall have the following powers and duties:

(A) All powers that may lawfully be conferred upon the Commission pursuant to the applicable provisions of Indiana law including the power to:
(1) Investigate, conciliate and hear complaints;
(2) Subpoena and compel the attendance of witnesses or production of pertinent documents and records, and make use of such other discovery techniques as shall be necessary to complete investigations or conduct full hearings as provided for in IC 4-22-1 et. seq. and Rule 28(F) of the Indiana Rules of Trial Procedure. Subpoena shall only be used in the investigative and hearing processes.
(3) Administer oaths;
(4) Examine witnesses;
(5) Appoint hearing examiners or panels;
(6) Make findings and recommendations;
(7) Issue cease and desist orders requiring remedial action;
(8) Order payment of actual damages, except that damages to be paid as a result 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 an appropriate court;
(10) Employ an Executive Director and other staff personnel;
(11) Adopt rules and regulations;
(12) Initiate complaints, except that no person who initiates complaints may participate as a member of the agency in the hearing or disposition of the complaint; and
(13) Conduct programs and activities via standing committees to carry out the purposes of the Muncie Human Rights Commission provided for in this subchapter within the territorial boundaries of the City.

(B) The Executive Director of the Human Rights Commission, will present, in writing, documentation for a subpoena to the City Attorney for the purpose of further conducting an investigation. The City Attorney shall review the documentation provided by the Human Rights Commission and then, in writing, inform the person or party to be subpoenaed. Upon receipt of notification, five (5) working days are allotted to show cause why the subpoena should not be issued. Appropriate weightshall be given to the information submitted by the person or party in question. The City Attorney will approve or deny the subpoena request based on documentation provided by the Human Rights Commission and the person or party involved. If approved, than the subpoena may be issued as requested by the Executive Director. If denied, then no subpoena shall be issued.

(C) The Commission shall endeavor to keep itself fully informed concerning the studies and findings of private organizations in respect to the practices falling within the Commission's jurisdiction.

(D) Commissioners must attend a minimum of two (2) training sessions per year. Failure to meet this minimum will result in the offending commissioner's removal from the Commission at year's end. Training for members of the Commission will be arranged by the Executive Director.

Sec. 34.87. Unlawful discriminatory practices.

(A) It shall be unlawful for any person to commit any act of discriminatory practice as herein

defined.

(B) Unlawful Housing Discrimination in the sale or rental of housing (including mobile homes) by any owner, or any real estate operator or any person employed by or acting on behalf of any real estate operator, is prohibited. It shall be an unlawful discriminatory housing practice for any owner, or any real estate operator or any person employed by or acting on behalf of any real estate operator:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or to indicate such dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available, or otherwise make unavailable or deny, a dwelling to any person because of race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status;

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status;

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status, or an intention to make any such performance, limitation, or discrimination; and

(4) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status.

(C) Unlawful financial discrimination.

(1) It shall be unlawful for any person, herein defined, whose business consists in whole or in part in the appraising of property of the making of real estate loans, to deny a loan or other financial assistance to an applicant therefor, or to discriminate against such applicant in the fixing or amount, interest rate, duration, or other terms or conditions or such loan or other financial assistance, or to make a lower appraisal valuation because of the race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status of such applicant, or of any person connected with such applicant in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; or because of the presence or absence or the prospective presence or absence within a neighborhood of concentrations of persons of a particular race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status.

(2) It shall be unlawful for any creditor to discriminate against any person in any credit transaction because of race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status.

(D) Unlawful employment discrimination.

(1) It shall be unlawful for any person or employer to discriminate against any person by treating any such person differently or by excluding from or failing or refusing to extend to any person equal opportunities with respect to hiring, termination, compensation, tenure, or other terms, conditions, or privileges of employment, because of race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status.

(2) It shall be unlawful for any person or employer to limit, segregate, or classify his/her employees or applicants for employment in any way which would deprive or tend to deprive, any individual of employment opportunities or otherwise adversely affect his or her status as an employer, because of such individual's race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status.
(3) It shall be unlawful for any employer to fail to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified employee or prospective employee or fail to make reasonable accommodations to the religious observance or practice of any employee or prospective employee unless such employer can demonstrate that the accommodation would impose an undue hardship on the conduct of the employer's business.
(4) It shall be unlawful for any person to make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement with respect to employment that indicates a preference, limitation, specification or discrimination based on race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status.
(5) It shall be unlawful for any employment or agency to fail or refuse to refer for otherwise to discriminate his or her race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status.

(E) Unlawful labor organization discrimination.
It shall be unlawful for a labor organization:
(1) To exclude or expel from its membership, or otherwise to discriminate against, any individual because of race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status;
(2) To limit, segregate, or classify its member- ship, or applicants for membership, or to classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his or her status as an employee or as an applicant for employment because of race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status;
(3) To cause or attempt to cause an employer to discriminate against an individual in violation of this action.

(F) Unlawful public place of accommodation or amusement discrimination. It shall be unlawful for any person or establishment which caters or offers its services or facilities or goods to the general public to discriminate against anyone because of race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status.
(1) It shall be unlawful for any person to deny another or charge another a higher price than the regular rate for the full and equal enjoyment of any public place of accommodation or amusement because of his or her race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status.
(2) It shall be unlawful for any person to directly or indirectly publish, circulate, display, or mail any written communication which he or she knows is to the effect that any of the facilities of any public place of accommodation or amusement will be denied to any person by reason of his or her race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status or that employment or against any individual on the basis of his or her race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status or that the patronage of a person is unwelcome, objectionable, or

unacceptable for any of these reasons.

(3) It shall be unlawful for any person of any place of public accommodation or amusement to refuse to permit a visually impaired, hearing impaired, or mobility impaired person to enter or use any such accommodations as are available, for the reason that the person is being assisted by a dog specially trained to assist such person if:

(a) The dog is wearing a harness or appropriate collar with identification; and

(b) The person has presented, for inspection, credentials issued by a bona fide school for training such dogs.

(G) Unlawful discrimination in education institutions. It shall be unlawful for any person, establishment, or governmental agency regularly engaged in the offering of education services to discriminate against anyone because of race, color, age, religion, sex, sexual orientation, gender identity, disability, ancestry, national origin, or United States military service veteran status.

(H) Other unlawful practices:

(1) It shall be unlawful for any person to aid, abet, incite, compel, or coerce the doing of any act declared by this subchapter to be unlawful.

(2) It shall be unlawful for any person knowingly to obstruct the fair and lawful enforcement of this subchapter by coercing or intimidating any complainant or prospective complainant, or any witness to any act made unlawful herein, or by destroying any records, documents or other evidence relevant to any alleged unlawful discriminatory practice as defined herein, after such person has received actual notice of a discrimination charge or has been served notice of a complaint filed.

(3) It shall be unlawful for any person to discriminate against any other person with regard to, or to deny any other person access to or opportunities in employment, real estate transactions, education, or public accommodations because any other person has opposed any practice made unlawful by this subchapter, or because other person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

(B) The clerk is directed to notify the mayor and common council of the city and the judge of the Delaware Circuit Court of the adoption of these sections and of their duty to nominate, select, and appoint trustees of the redevelopment commission as required by IC 18-7-7-5 and 18-7-7-6.
(Code 1968, § 34.21)

Sec. 34.42. Meetings.

The redevelopment trustees shall meet upon call of the mayor within 30 days of their appointment and shall appoint five commissioners by majority vote in accordance with IC 18-7-7-6 and 18-7-7-7.
(Code 1968, § 34.22)

Secs. 34.43—34.69. Reserved.

DIVISION 4. POLICE AND FIREMEN'S PENSION BOARDS*

Sec. 34.70. Police pension fund board of trustees.

A police pension fund is established in accordance with the provisions of state law.
(Code 1968, § 34.40)

Sec. 34.71. Firemen's pension fund board of trustees.

A firemen's pension fund is established in accordance with the provisions of state law.
(Code 1968, § 34.41)

Secs. 34.72—34.79. Reserved.

DIVISION 5. HUMAN RIGHTS COMMISSION

Sec. 34.80. Public policy and purpose.

(A) It is the public policy of the city 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 discrimination based on race, religion, color, sex, handicap, ancestry or national origin since such discrimination is an impediment to equal opportunity. Equal education, employment opportunities, access to and use of public accommodations, and equal opportunity for acquisition of real property are hereby declared to be civil rights.

(B) The practice of denying these rights to properly qualified persons by reason of the race, religion, color, sex, handicap, ancestry or national origin of such person is contrary to the principles of freedom and equality of opportunity and is a burden to the objective of the public policy of this city and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, handicap, ancestry or national origin is the purpose of this section.

(C) It is also the public policy of the city to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders, and lending institutions from unfounded charges of discrimination.

(D) In filling such broad purposes, the Muncie Human Rights Commission is to:

(1) Study, investigate and take action in regard to any condition having an adverse effect upon relations between persons of various races, sexes, creeds, abilities, and nationalities;

(2) Institute and conduct educational and other programs intended to promote the equal rights and opportunities of all persons.

(3) Solicit the cooperation the various racial, ethnic, handicapped, women's rights, and religious groups within the community in order to improve the quality of communications and understanding within the community;

(4) Stimulate private and governmental departments and agencies to develop and foster meaningful programs in support of the objectives and purposes of the Muncie Human Rights Commission;

*State law references—Firemen's pension fund, IC 18-1-12; 19-1-37; police pension fund, IC 19-1-24-1.

(5) Insure the equal protection of all person and the full availability of all rights and privileges of citizenship to all persons.

(Ord. No. 41-89, 10-2-89)

Sec. 34.81. Definitions and exemptions.

(A) Definitions. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Discrimination. Any difference in treatment based on race, sex, color, religious, handicap, ancestry, or national origin. The term "discrimination" shall also mean the exclusion of a person from or failure or refusal to extend to a person equal opportunities because of race, sex, religion, color, handicap, ancestry, or national origin. The term "discrimination" shall also mean the promotion of segregation or separation, in any manner on the basis of race, sex, religion, color, handicap, ancestry, or national origin.

Employer. Any person employing six or more individuals within the territorial limits of the city. 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, or any exclusively social club, corporation, or association that is not organized for profit.

Executive committee. The Chairman, Vice Chairman and Secretary of the Muncie Human Rights Commission. The Executive Director will service as an ex-officio member to this group. The Chairman may, if necessary, invite the input of other individuals in the deliberations of the Executive Committee.

Handicap. Physical or mental impairment which substantially limits one or more of a person's major life activities; a record of such an impairment and includes a person who is regarded as having such an impairment. This term does not apply to drug or alcohol abuse or addiction.

Labor organization. Any organization which exists for the purpose, in whole or part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.

Owner. Includes the Lessor, Sublessor, Assignor or managing agent or other persons having the right of ownership or possession or the right to sell, rent, or lease any housing accommodation.

Person. One or more individuals, 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 or persons. The foregoing includes members, representatives, officers, directors, and agents.

Real estate operator. 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 collects rental of the use of real property of another.

(B) Exemptions.

(1) With respect to employment discrimination, employers of six or less employees are exempt from the provision of this section.

(2) It shall not be deemed discrimination for any not-for-profit corporation or association organized exclusively for religious purposes or for any school, educational or charitable institution owned or conducted by or affiliated with a church or religious institution to devote its resources to its owner religion or denomination, or to give preference to members of such institution or educationally to promote exclusively the religious principles for which it is established or maintained.

(3) It shall not be deemed discrimination on account of handicap for any governmental agency or not-for-profit corporation established for the purpose of offering or providing education, training or other social services and benefits to handicapped persons or to give a preference to handi-

capped persons with respect to such education, training or social services and benefits.
(Ord. No. 41-89, 10-2-89)

Sec. 34.82. Human rights commission created.

To assist in the elimination of discrimination in the city, there is hereby created a commission to be known as the Muncie Human Rights Commission.

(A) The Commission shall be composed of nine members serving without compensation, except members may be reimbursed for authorized expense incurred in the performance of their duties, providing there are sufficient monies in the Human Rights Commission budget to cover such expenses.

(B) The members shall be broadly representative of the religious, educational, ethnic, economic, and handicapped group in the city.

(C) Each member shall be a registered voter in, and resident of the city.
(Ord. No. 41-89, 10-2-89)

Sec. 34.83. Term of office.

(A) The term of each member shall be three years commencing June 1. No member may serve more than two full consecutive terms.

(B) Future appointments. The mayor shall appoint six members and the Common Council shall appoint three members. Terms of office of the present Commission are staggered. On June 1 of each year, there shall be three expirations and three appointments. Of these three appointments, two shall be made by the mayor and one shall be made by the Common Council.

(C) In the event of death, removal, or resignation of any member, the member's successor shall be appointed by the mayor or the Common Council, whichever originally appointed the vacating member, to serve for the unexpired period of the vacated term.

(D) A member who is absent from three consecutive regular meetings of the Commission or four in a calendar year without good and sufficient cause, will be removed from the Commission. In this case the vacancy caused by the removal shall be filed as in other vacancies.

(E) Either the mayor or the Common Council shall, at any time, have the right to remove any member of the Commission appointed by him or it with cause.
(Ord. No. 41-89, 10-2-89)

Sec. 34.84. Officers.

(A) The Commission shall elect a Chairperson at the annual meetings and shall also elect such other officers as the Commission shall desire from among their members. They shall serve until noon of the succeeding January 1.

(B) The Commission shall appoint an Executive Director who shall serve and be responsible to the Human Rights Commission for daily operations of the Commission and other related duties as assigned by the Commission.

(C) The Chairman or the Executive Director act as the official representative and spokesperson for the Commission. No Commissioner shall speak for the Commission unless designated by the Chairman or the Executive Director.
(Ord. No. 41-89, 10-2-89)

Sec. 34.85. Meetings.

(A) The Commission shall meet once each month at a regularly published time and place and shall hold special meetings as the Chairperson deems necessary or at the request of a majority of its members. All regularly scheduled meetings shall be open to the public.

(B) A quorum consisting of five Commissioners must be present in order to conduct any business at the regular monthly meetings or special meetings.
(Ord. No. 41-89, 10-2-89)

Sec. 34.86. Powers and duties.

The Commission shall have the following powers and duties:

(A) All powers that may lawfully be conferred upon the Commission pursuant to the applicable provisions of Indiana law including the power to:

(1) Investigate, conciliate and hear complaints;

(2) Subpoena and compel the attendance of witnesses or production of pertinent documents and records, and make use of such other discovery techniques as shall be necessary to complete investigations or conduct full hearings as provided for in IC 4-22-1 et. seq. and Rule 28(F) of the Indiana Rules of Trial Procedure. Subpoena shall only be used in the investigative and hearing processes.

(3) Administer oaths;

(4) Examine witnesses;

(5) Appoint hearing examiners or panels;

(6) Make findings and recommendations;

(7) Issue cease and desist orders requiring remedial action;

(8) Order payment of actual damages, except that damages to be paid as 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 an appropriate court;

(10) Employ an Executive Director and other staff personnel;

(11) Adopt rules and regulations;

(12) Initiate complaints, except that no person who initiates complaints may participate as a member of the agency in the hearing or disposition of the complaint; and

(13) Conduct programs and activities via standing committees to carry out the purposes of the Muncie Human Rights Commission provided for in this subchapter within the territorial boundaries of the city.

(B) The Executive Director of the Human Rights Commission, will present, in writing, documentation for a subpoena to the City Attorney for the purpose of further conducting an investigation. The City Attorney shall review the documentation provided by the Human Rights Commission and then, in writing, inform the person or party to be subpoenaed. Upon receipt of notification, five working days are allotted to show cause why the subpoena should not be issued. Appropriate weight shall be given to the information submitted by the person or party in question. The City Attorney will approve or deny the subpoena request based on documentation provided by the Human Rights Commission and the person or party involved; If approved, than the subpoena may be issued as requested by the Executive Director. If denied, then no subpoena shall be issued.

(C) The Commission shall endeavor to keep itself fully informed concerning the studies and findings of private organizations in respect to the practices falling within the Commission's jurisdiction.

(D) Commissioners must attend a minimum of two training sessions per year. Failure to meet this minimum will result in the offending commissioner's removal from the Commission at year's end. Training for members of the Commission will be arranged by the Executive Director.

(Ord. No. 41-89, 10-2-89)

Sec. 34.87. Unlawful discriminatory practices.

(A) It shall be unlawful for any person to commit ant act of discriminatory practice as herein defined.

(B) Unlawful Housing Discrimination in the sale or rental of housing (including mobile homes) by any owner, or any real estate operator or any person employed by or acting on behalf of any real estate operator, is prohibited. It shall be an unlawful discriminatory housing practice for any owner, or any real estate operator or any person employed by or acting on behalf of any real estate operator:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or to indicate such dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, ancestry or handicap;

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race color, religion, sex, national origin, ancestry or handicap;

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, ancestry or handicap, or an intention to make any such performance, limitation, or discrimination;

(4) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, ancestry or handicap;

(C) Unlawful financial discrimination.

(1) It shall be unlawful for any person, herein defined, whose business consists in whole or in part in the appraising of property of the making of real estate loans, to deny a loan or other financial assistance to an applicant therefor, or to discriminate against such applicant in the fixing or amount, interest rate, duration, or other terms or conditions or such loan or other financial assistance, or to make a lower appraisal valuation because of the race, sex, color, religion, national origin, ancestry or handicap of such applicant, or of any person connected with such applicant in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; or because of the presence or absence or the prospective presence or absence within a neighborhood of concentrations of persons of a particular race, sex, handicap, color, religion, ancestry or national origin.

(2) It shall be unlawful for any creditor to discriminate against any person in any credit transaction because of sex, race, color, handicap, religion, ancestry or national origin.

(D) Unlawful employment discrimination.

(1) It shall be unlawful for any person or employer to discriminate against any person by treating any such person differently or by excluding form or failing or refusing to extend to any person equal opportunities with respect to hiring, termination, compensation, tenure, or other terms, conditions or privileges of employment, because of race, sex, color, religion, handicap, ancestry or national origin.

(2) It shall be unlawful for any person or employer to limit, segregate, or classify his or employees or applicants for employment in any way which would deprive or tend to deprive, any individual of employment opportunities or otherwise adversely effect his or her status as an employer, because of such individual's sex, race, religion, color, national origin, ancestry or handicap.

(3) It shall be unlawful for any employer to fail to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped employee or prospective employer or fail to make reasonable accommodations to the religious observance or practice of any employee or prospective employee unless such employer can demonstrate that the accommodation would impose an undue hardship on the conduct of the employer's business.

(4) It shall be unlawful for any person to make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement with respect to employment that indicates a preference, limitation, specification or discrimination based on race, color, sex, religion, national origin, ancestry or handicap.

(5) It shall be unlawful for any employment or agency to fail or refuse to refer for employment or otherwise to discriminate against any individual on the basis of his or her sex, race, religion, color, national origin, ancestry or handicap.

(E) Unlawful labor organization discrimination. It shall be unlawful for a labor organization:

(1) To exclude or expel from its membership, or otherwise to discriminate against, any individual because of race, color, religion, sex, national origin, ancestry or handicap;

(2) To limit, segregate, or classify its membership, or applicants for membership, or to classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his or her status as an employee or as an applicant for employment, because of race, color, religion, sex, national origin, handicap or ancestry;

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

(F) Unlawful public place of accommodation or amusement discrimination. It shall be unlawful for any person or establishment which caters or offers its services or facilities or goods to the general public to discriminate against anyone because of race, sex, color, religion, national origin, ancestry or handicap.

(1) It shall be unlawful for any person to deny another or charge another a higher price than the regular rate for the full and equal enjoyment of any public place of accommodation or amusement because of his or her sex, race, color, religion, national origin, ancestry or handicap.

(2) It shall be unlawful for any person to directly or indirectly publish, circulate, display, or mail any written communication which he or she knows is to the effect that any of the facilities of any public place of accommodation or amusement will be denied to any person by reason of his or her sex, race, color, religion, national origin, ancestry or handicap or that the patronage of a person is unwelcome, objectionable or unacceptable for any of these reasons.

(3) It shall be unlawful for any person of any place of public accommodation or amusement to refuse to permit a visually impaired, hearing impaired, or mobility impaired person to enter or use any such accommodations as are available, for the reason that the person is being assisted by a dog specially trained to assist such person if:

(a) The dog is wearing a harness or appropriate collar with identification; and

(b) The person has presented, for inspection, credentials issued by a bona fide school for training such dogs.

(G) Unlawful discrimination in education institutions. It shall be unlawful for any person, establishment or governmental agency regularly engaged in the offering of education services to discriminate against anyone because of race, sex, color, national origin, religion, ancestry or handicap.

(H) Other unlawful practices:

(1) It shall be unlawful for any person to aid, abet, incite, compel, or coerce the doing of any act declared by this subchapter to be unlawful.

(2) It shall be unlawful for any person knowingly to obstruct the fair and lawful enforcement of this subchapter by coercing or intimidating any complainant or prospective complainant, or any witness to any act made unlawful herein, or by destroying any records, documents or other evidence relevant to any alleged unlawful discriminatory practice as defined herein, after such person has received actual notice of a discrimination charge or has been served notice of a complaint filed.

(3) It shall be unlawful for any person to discriminate against any other person with regard to, or to deny any other person access to or opportunities in employment, real estate transactions, education or public accommodations because any other person has opposed any practice made unlawful by this subchapter, or because other person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

(Ord. No. 41-89, 10-2-89)

Secs. 34.88—34.94. Reserved.

DIVISION 6. INDUSTRIAL REVOLVING FUND BOARD

Sec. 34.95. Creation.

An industrial revolving fund board (hereinafter referred to as the "board of directors") is created and established to administer the industrial revolving fund account (hereinafter referred to as the "fund account") and the industrial revolving fund account instrument of trust (hereinafter referred to as the "trust"). The trust shall be entered into by the city with The Merchants National Bank of Muncie, Indiana, as trustee (hereinafter with its successor or successors referred to as "trustee"), in order to facilitate the administration of the fund account.
(Ord. No. 322-77, 8-22-77)

Sec. 34.96. Membership.

(A) The board of directors shall act only through its members who shall consist of eight people who shall be appointed by the mayor and shall consist of the following:

(1) The city attorney of the city;

(2) The community development executive director;

(3) A member of the common council elected by the common council;

(4) A member of the economic sets in accordance with those directions and the terms of the trust.

(5) A representative of the minority community appointed by the mayor;

(6) A member of the Muncie-Delaware County Chamber of Commerce, nominated by the chamber of commerce board of directors and appointed by the mayor.

(7) A member of organized labor appointed by the mayor;

(8) Trustee appointed by the mayor, who shall serve as an ex officio member having a voice but not a vote.

(B) If there is no office in these designated agencies or their equivalent successors, the director shall be a resident of the city.

(C) Each director shall hold office until the annual meeting of the board of directors and until his successor shall have been appointed and qualified. Any director may resign and such resignation shall become effective upon delivery of written notice thereof to the mayor and trustee. Upon appointment, the directors shall take an oath to faithfully perform their duties pursuant to sections 34.95 through 34.97 and applicable federal law and to elect one among them to serve as chairman of the board of directors and one among them to serve as secretary.