

Danville, KY
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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DANVILLE, KENTUCKY, ESTABLISHING A NEW CHAPTER IN THE CITY OF DANVILLE CODE OF ORDINANCES TITLED FAIR HOUSING, PUBLIC ACCOMMODATIONS AND EMPLOYMENT WHICH PROHIBITS DISCRIMINATION AGAINST INDIVIDUALS ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, FAMILIAL STATUS, DISABILITY, GENDER IDENTITY AND SEXUAL ORIENTATION AND CREATES AN ADMINISTRATIVE PROCEDURE FOR ENFORCEMENT.

WHEREAS, the City of Danville, Kentucky, by and through its Board of Commissioners (hereinafter "the City") welcomes diversity, desires to be an inclusive community and believes that all individuals should be treated fairly with respect and dignity;

WHEREAS, the City believes the words of the Declaration of Independence that all people are created equal and are endowed by our Creator with certain unalienable rights and as such are of sacred value not deserving of discrimination;

WHEREAS, the City seeks to discourage discrimination against all individuals on the basis of race, color, religion, national origin, sex, familial status, age, disability, gender identity and sexual orientation and supports the treatment of all people with respect and dignity;

WHEREAS, the City wishes to prohibit discrimination against individuals in housing, employment and public accommodations on the basis of race, color, religion, national origin, sex, familial status, age, disability, gender identity and sexual orientation and provide for the enforcement of same under this ordinance; and

WHEREAS, the City further recognizes the long standing tradition of religious liberty established by our country's founding fathers and the words of the First Amendment to the United States Constitution that government shall make no law respecting an establishment of

religion, or the free exercise thereof, and therefore sought to balance the right of persons to be free from discrimination with the free exercise of religion by providing an exception for same.

NOW, THEREFORE, be it **ORDAINED** by the City of Danville, Kentucky, that a new chapter in the City of Danville Code of Ordinances be established and titled **FAIR HOUSING, PUBLIC ACCOMMODATION AND EMPLOYMENT**, and shall read as follows:

SECTION ONE: POLICY AND PURPOSE.

The City desires to implement a policy to protect all individuals within the City from discrimination in certain contexts in housing, employment and public accommodations on account of race, color, religion, national origin, sex, age, familial status, age, disability, gender identity and sexual orientation. Certain practices are prohibited in an effort to protect an individual's personal dignity and to preserve the general welfare of the citizenry.

SECTION TWO: DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. These definitions shall be superseded by KRS 344.010(4) and KRS 344.030(1) and applicable federal and state law that may be in effect at the time of a violation.

~~64~~ **AGE.** Age forty (40) years and older.

~~64~~ **BONA FIDE OFFER.** Any written offer to purchase, exchange, rent, or lease of any housing accommodation that is made in good faith without fraud or deceit.

DISABILITY. Any individual who: (a) has a physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual; (b) has record of

such an impairment; or (c) is regarded as having such an impairment. The term does not include persons with current or past controlled substances abuse or alcohol abuse problems and persons excluded from coverage by the Americans with Disabilities Act of 1990.

DISCRIMINATION. Any direct or indirect act or practice of exclusion, restriction, segregation, limitation, refusal, denial, or any act or practice of differentiation or preference in the treatment of a person or persons, or the aiding, abetting, inciting, coercing or compelling thereof made unlawful under this chapter.

DISCRIMINATORY PRACTICE. An act that is unlawful under this chapter.

DWELLING. Any building, structure or portion thereof which is occupied as, or designated or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any building, structure or portion thereof.

EMPLOYEE. Any individual employed by an employer, but not including an individual employed by his or her parents, spouse or child, or an individual employed to render services as a nurse, domestic or personal companion in the home of the employer.

EMPLOYER. Any person who has eight (8) or more employees within the City in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person, except for purposes of determining discrimination based on disability, employer means a person engaged in an industry affecting commerce who has fifteen (15) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and any agent of that person, excluding the United States, the Commonwealth of Kentucky or one of its agencies or corporations, and Indian Tribes.

EMPLOYMENT AGENCY. Any person regularly undertaking, either with or without

compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer and includes any agent of such person.

FAMILIAL STATUS. One or more individuals who have not attained the age of eighteen (18) years and are being domiciled with a parent or another person having legal custody of such individual or individuals; or the designee of such parent or other person having custody, with the written permission of such parent or other persons. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

GENDER IDENTITY. Manifesting a gender identity not traditionally associated with one's biological or psychological maleness or femaleness.

FAMILY. Includes a single individual, spouse, and children, whether related by blood, legal guardianship, marriage, or adoption.

PERSON. One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

PLACE OF PUBLIC ACCOMMODATION, RESORT OR AMUSEMENT. Any place, building, facility, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly by government funds; except that a private club is not a place of public accommodation, resort or amusement if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests. This definition does not include a dwelling or 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. The exemptions afforded to a place of public accommodation, resort or amusement shall be the same as those contained in KRS 344.130.

SEXUAL ORIENTATION. An individual's actual or imputed heterosexuality, homosexuality or bisexuality.

SECTION THREE: UNLAWFUL PRACTICES IN HOUSING.

Except as otherwise provided herein, it shall be a prohibited unlawful practice:

(A) To refuse to sell, purchase, exchange, rent or lease, or otherwise deny or withhold any housing accommodation from a person because of his or her race, color, religion, national origin, sex, familial status, disability, gender identity or sexual orientation;

(B) To discriminate against a person because of that person's race, color, religion, national origin, sex, familial status, disability, gender identity or sexual orientation in terms, conditions, or privileges of the sale, purchase, exchange, rental, or lease of any housing accommodation or in the furnishing of facilities or services in connection therewith;

(C) To refuse to receive or transmit or negotiate a bona fide offer to sell, purchase, exchange, rent, or lease any housing accommodation from or to a person because of his or her race, color, religion, national origin, sex, familial status, disability, gender identity or sexual orientation;

(D) To represent to a person that any housing accommodation is not available for inspection, sale, purchase, exchange, rental or lease when in fact it is so available because of that person's race, color, religion, national origin, sex, familial status, disability, gender identity or sexual orientation;

(E) To make, print, publish or cause to be made, printed or published any notice, statement or advertisement for the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, sex, familial status, disability, gender identity or sexual orientation;

(F) To induce or attempt to induce the sale, purchase, exchange, rental, lease, or listing of any housing accommodation by making representations regarding the entry of prospective entry into the neighborhood regarding a person's particular race, color, religion, national origin, sex, familial status, disability, gender identity or sexual orientation; and

(G) To otherwise deny access to or withhold any housing accommodation from a person because of his or her race, color, religion, national origin, sex, familial status, disability, gender identity or sexual orientation;

(H) For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of residential real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration or other terms or conditions of the loan or other financial assistance, because of race, color, religion, national origin, sex, familial status, disability, gender identity or sexual orientation of the person or of any person associated with him or her in connection with the loan or other financial assistance or the purposes of the 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 the loan or other financial assistance is to be made or given. Nothing in this section shall impair the scope or effectiveness of the exception contained in Section Four.

SECTION FOUR: EXEMPTIONS FROM UNLAWFUL HOUSING PRACTICES.

The provisions of this chapter prohibiting discriminatory housing practices, other than the prohibition of discriminatory advertising, shall not apply to:

- (A) The rental or lease of any housing accommodations in a building which contains not more than two (2) families living independently of each other, if the owner or a member of his or her family resides in one of the housing accommodations;
- (B) The rental or lease of any rooming units in a housing unit, if the owner or a member of his or her family resides in the housing unit;
- (C) The rental or lease of any rooming units in a house in which the owner of the entire house or member of his or her family resides;
- (D) Rental of lodging by a private club not in fact open to the public that, as an incident to its primary purpose or purposes, provides lodging that it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodging to its members or from giving preference to its members;
- (E) A private individual homeowner disposing of his or her property through private sale without the aid of any real estate broker or real estate salesperson, and without advertising or public display, but nothing in this section shall prohibit the homeowner from the use of attorneys, escrow agents, abstractors, title professionals and other professional assistance as necessary to perfect or transfer the title;
- (F) Housing for older persons with respect to familial status. Housing for older persons means housing:
 - (1) provided under any program of a state or federal housing agency that is specifically designed and operated to assist elderly persons (as defined by the state or federal

program);

(2) intended for, and solely occupied by, persons sixty-two (62) years of age or older; or

(3) intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this chapter, state or federal housing agency regulations must require at least the following factors:

(a) The existence of facilities and services are designed to meet the physical or social needs of older persons or to present housing opportunities for older persons;

(b) That at least eighty (80%) of the dwellings are occupied by at least one person fifty-five (55) years of age or older per unit;

(c) The publication of, and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

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

(H) Nothing in this chapter shall require an owner of real property to negotiate with any individual who has not shown evidence of financial ability to consummate the purchase or rental of a housing accommodation.

(I) Nothing in this chapter shall prohibit conduct against a person because the person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance.

SECTION FIVE: UNLAWFUL PRACTICES IN PUBLIC ACCOMMODATIONS.

Except as otherwise provided herein, it shall be a prohibited unlawful practice to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation on the ground of race, color, religion, national origin, sex, disability, gender identity or sexual orientation. (This section shall not apply with regards to sex and gender identity to the following:)

- (A) Restrooms, shower rooms, bathhouses, and similar facilities which are, by their nature, distinctly private;
- (B) YMCA, YWCA and similar dormitory-type lodging facilities;
- (C) The exemptions contained in the definitions of Place of Public Accommodation, Resort, or Amusement as set forth in Section Two;
- (D) Hospitals, nursing homes, schools, childcare facilities, jails, penal or similar facilities with respect to any requirement that men and women not be in the same room.

SECTION SIX: UNLAWFUL PRACTICES IN EMPLOYMENT.

(A) It is a prohibited, unlawful practice for an employer or employment agency:

- (1) To fail or refuse to hire or to discharge any individual, or otherwise discriminate against any individual with respect to his or her terms or conditions of employment, because of his or her race, color, religion, national origin, sex, age, disability, gender identity and sexual orientation; and
- (2) To limit, segregate, or classify employees in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or

her status as an employee because of the individual's race, color, religion, national origin, sex, age, disability, gender identity and sexual orientation.

(B) It is a prohibited, unlawful practice for a labor organization to:

(1) To exclude or to expel from its membership or to otherwise discriminate against a member or applicant for membership because of that individual's race, color, religion, national origin, sex, age, disability, gender identity and sexual orientation;

(2) To limit, segregate, or classify employees in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of the individual's race, color, religion, national origin, sex, age, disability, gender identity and sexual orientation.

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

(C) It is a prohibited, unlawful practice for a an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of his or her status as an employee because of the individual's race, color, religion, national origin, sex, age, disability, gender identity and sexual orientation in admission to or employment in any program established to provide such apprenticeship, training or retraining.

(D) It is a prohibited, unlawful practice for a an employer, labor organization or employment agency to print, publish, or cause to be printed or published any notice, advertisement, classification, or referral for employment imposing any limitation, preference, or specification based on race, color, religion, national origin, sex, age, disability, gender identity and sexual orientation, except that such notice, advertisement, classification, referral for

employment may indicate such a limitation, preference, or specification based on race, color, religion, national origin, sex, age, disability, gender identity and sexual orientation when it is a bona fide occupational qualification for employment.

(E) Nothing herein shall prevent an employer from:

- (1) Enforcing a written employee dress policy; or
- (2) Designating appropriate restroom and shower facilities.

SECTION SEVEN: EXEMPTIONS FROM UNLAWFUL EMPLOYMENT PRACTICES.

(A) Notwithstanding any other provision of this chapter, it shall not be an unlawful practice for:

(1) An employer to hire and employ employees; or an employment agency to classify or refer for employment an individual; or a labor organization 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 or her religion, national origin or sex is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise;

(2) A school, college, university, or other educational institution to hire and employ individuals of a particular religion, if the school, college, university or other educational 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 and maintained; and

(4) 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 of production or to employees who work in different locations, if the differences are not the result of an intention to discriminate because of race, color, religion, national origin, sex, familial status, age, disability, gender identity and sexual orientation, 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 the test, its administration, or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, national origin, sex, familial status, age, disability, gender identity and sexual orientation.

(B) Any employer who has less than eight (8) employees within the City in each of twenty (20) or more calendar weeks in the current or preceding calendar year, shall be exempt from the provisions of this chapter.

SECTION EIGHT: GENERAL EXEMPTIONS FROM THIS CHAPTER.

(A) The City of Danville is prohibited from substantially burdening a person's freedom of religion by the provisions of KRS 446.350. Accordingly, where a person, by action or inaction, violates the provisions of this Chapter of the City's Code of Ordinances due to a sincerely held religious belief, the individual or entity alleging the violation must prove by clear and convincing evidence that the City has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest to

establish the existence of the violation. A “burden” shall include indirect burdens such as withholding benefits, assessing penalties, or an exclusion from programs or access facilities. This section shall apply in any legal or administrative proceeding brought to enforce the provisions of this chapter, whether or not the City of other governmental authority is a party to such proceeding. A person’s sincerely held religious belief may be established by the execution of a sworn affidavit.

(B) The provisions of this chapter shall not apply to a faith based social service provider. Nor shall they apply to a religious institution, association, society, entity, or to an organization operated for charitable or educational purposes, which is owned, operated or controlled by a religious institution, association, society or entity.

SECTION NINE: ADMINISTRATION AND ENFORCEMENT.

(A) The responsibility for administering this chapter shall be borne by the City Manager, or any other individual designated by the City Manager.

(B) Any claims filed under this chapter regarding race, color, religion, national origin, sex, familial status, age, or disability shall be delegated and referred to the State Human Rights Commission, including functions, duties and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business or matter regarding those types of claims.

(C) Administration and enforcement this regarding claims filed under this chapter regarding gender identity or sexual orientation shall be as follows:

(1) Any person claiming to be aggrieved by a violation of this chapter may, within one hundred eighty (180) days of the alleged violation or within thirty (30) days of the

dismissal of a charge or complaint concerning the same matter by another governmental agency or state or federal court without a final judgment on the merits, whichever occurs last, file a written complaint under oath with the City Manager. The City Manager may designate an agent to fulfill the duties and procedures outlined herein.

(2) A person who has filed a complaint with the State Human Rights Commission, and whose complaint is pending shall provide written notice to the Human Rights Commission within five (5) business days of the filing of any complaint or charge on his or her behalf with another agency or state or federal court that seeks relief or damages for the same alleged violation(s) arising from the same transaction(s) or occurrence(s) upon which the person seeks relief hereunder. Upon receiving notice of the other charge or complaint, the Human Rights Commission shall have discretion to dismiss the complaint filed hereunder. The failure to provide such notice in a timely manner may result in the immediate dismissal of the complaint filed herein. The complaint shall state as follows:

- (a) The name and address of the complainant;
- (b) The name and address (if known) of the alleged violator, or provide facts sufficient to identify such person;
- (c) An outline of the material facts upon which the complaint is based;
- (d) The alleged violation;
- (e) That any conduct of the complainant was for the purpose of obtaining the housing, employment or public accommodation in question and not for the purpose of harassment or entrapment of the person against whom the complaint is made; and
- (f) That a complaint concerning this same matter has not been filed with another agency or that any complaint concerning this matter filed with another agency has been

dismissed by such agency without final judgment on the merits.

(3) The City Manager shall furnish a copy of the complaint to the person against whom the complaint is made.

(4) Before conducting a full investigation of the complaint, the City Manager may attempt to negotiate a settlement of the dispute between the parties, if the City Manager deems that such an attempt is practicable.

(5) If the City Manager does not deem it practicable to attempt a pre-investigation settlement or is such settlement attempt is unsuccessful, then the City Manager shall conduct an investigation to determine whether there is probable cause to believe the allegations of the complaint. An investigation can include but is not limited to interviews of the parties or requests for written statements and information. Said investigation must be completed within sixty days (60) of receipt of the complaint.

(6) If the City Manager determines that there is no probable cause that a discriminatory action occurred, the City Manager shall dismiss the complaint. Written notice of the dismissal shall be served upon the complainant by regular U.S. Mail. The notice shall state that the complainant may request a hearing before the Board of Commissioners of the City of Danville, in writing, within fourteen (14) days of the date of the dismissal and shall include a hearing request form with instructions as to how to file that request. If such hearing is held, the Board of Commissioners may affirm the decision of the City Manager or determine that probable cause exists and direct the City Manager to act in accordance with Section 9(11) and the remaining provisions of this Section.

(7) If the City Manager determines after an investigation that there is probable cause and a sufficient basis in fact to support the allegation(s) made in the complaint, the City

Manager shall endeavor to eliminate the alleged violation by a conciliation agreement, signed by all parties and the City Manager, wherein the alleged violation is eliminated and the complainant is made whole to the greatest extent practicable.

(8) The City Manager shall furnish a copy of such signed conciliation agreement to the complainant and the person charged.

(9) A conciliation agreement need not contain a declaration or finding that violation has in fact occurred, but may provide for dismissal of the complaint with or without prejudice.

(10) The City Manager shall have thirty (30) days from the filing of the complaint to attempt to eliminate the alleged violation by conciliation agreement. In the event that either the complainant or the person or entity charged indicates an unwillingness to participate in the conciliation process or in the event that no conciliation process or no conciliation agreement has been reached with the time provided, the City Manager shall refer the complaint for an administrative hearing. The City Manager may continue attempts to reach a conciliation agreement after referral of the complaint for hearing.

(11) The City Manager shall set a date for an administrative hearing and shall notify the complainant and the person or entity charged in writing at least ten (10) calendar days in advance of the hearing date.

(D) Hearings.

(1) A hearing officer shall be appointed by the City Manager to preside over the conduct of an administrative hearing and shall regulate the course of the proceedings in a manner that will promote the orderly and prompt conduct of the hearing. The hearing officer shall be an attorney licensed to practice law in the Commonwealth of Kentucky.

(2) To the extent necessary for the full disclosure of all relevant facts and issues, a hearing officer shall afford all parties the opportunity to respond, present documentary or tangible evidence, conduct cross-examination, and submit rebuttal evidence. The hearing officer shall supervise and determine what discovery will be appropriate, including but not limited to interrogatories, requests for production of documents and depositions.

(3) Any party to an administrative hearing may participate in person and/or be represented by counsel.

(4) If a party fails to attend or participate in a hearing, the hearing officer may adjourn the proceedings and issue a default order.

(5) Hearing shall be conducted in accordance with KRS 13B.080 and KRS 13B.090 unless otherwise provided herein. Notwithstanding the foregoing, the hearing officer may receive additional evidence as he or she deems proper. Discovery of materials shall be completed at least fourteen (14) days prior to the hearing. The hearing officer shall receive only relevant and material evidence and all evidence must be presented in the presence of the hearing officer.

(6) Findings of fact shall be based exclusively on the evidence in the record. The strict rules of evidence governing civil proceedings shall not apply; however, the hearing officer will abide by the general principles of evidence in an effort to conduct a rational and reasonable investigation to seek the truth of the matter. All findings of fact shall be based upon a preponderance of the evidence. The order of proof shall be that set forth in the Kentucky Rules of Civil Procedure. The hearing officer shall have the discretion to grant a continuance or continue a hearing in progress on a showing of good cause.

(7) All testimony shall be made under oath or affirmation. Any part of evidence

may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party, or if such practice is authorized by statute. Any party shall have the right to inspect the documentary or tangible evidence relating to an administrative hearing either in person or by counsel.

(8) Objections to evidentiary offers may be made by any party and shall be noted in the record.

(9) A hearing officer may take official notice of any matter of which a court of the Commonwealth of Kentucky may take such notice.

(10) The hearing officer may order the removal of a person who exhibits disruptive behavior that interferes with the proceedings.

(11) A hearing officer shall cause all testimony in a hearing to be accurate and completely recorded. A hearing officer may prepare a transcript of a hearing upon request, but the party making the request shall be responsible for the cost thereof.

(12) Within ninety (90) days after the conclusion of the hearing, the hearing officer shall issue a recommended written order that shall include findings of fact, conclusions of law, and a final disposition of the hearing. A copy of the order shall be sent to each party and the City Manager.

(E) Enforcement of Orders.

(1) Upon receipt of a recommended written order from the hearing officer finding no violation of this chapter, the City Manager shall enter an order dismissing the complaint. Upon receipt of a written order from the hearing officer finding a violation of this chapter, the City Manager may issue one or more of the following orders:

(a) An order directing the person or entity found to have violated this

chapter to cease and desist from the discriminating practice;

(b) An order subjecting any person or entity found to have violated this chapter to civil penalties of not less than \$100 or more than \$500.

(2) The prevailing party may recover from the non-prevailing party the cost of the administrative proceeding and a reasonable attorney's fee and the order shall state same.

(3) Upon entry of the order, the City Manager shall send a copy of the order to all parties to the complaint by U.S. mail and shall inform the parties of the right to appeal to the Board of Commissioners along with instructions for doing so.

(F) Appeals.

(1) The order of the City Manager, and the findings of fact and conclusions of law

upon which it is based, may be appealed to the Board of Commissioners within thirty (30) calendar days of the entry of the order and said appeal shall be in writing and delivered by U.S. Mail to the City Clerk. The Board of Commissioners shall review the record established at a special called meeting within thirty (30) days of the written appeal and shall review same de novo and may hear testimony from the parties prior to making a decision to affirm, modify or set aside the order(s) entered by the City Manager.

(2) After an order is entered by the Board of Commissioners to affirm, modify or set aside the underlying order(s), an aggrieved party may appeal the decision to the Boyle Circuit Court within thirty (30) calendar days of the entry of order by the Board of Commissioners. The prevailing party may recover from the non-prevailing party court costs and a reasonable attorney's fee.

(G) Enforcement by Private Action.

(1) The rights granted by this chapter may be enforced by civil action in state or local court of general jurisdiction. A civil action must be commenced within 180 calendar days after the alleged discriminatory practice occurred. The court shall continue the civil case brought pursuant to this chapter from time to time before bringing it to trial if the court believes that the conciliation efforts of the City Manager or State Human Rights Commission are likely to result in satisfactory settlement of the discriminatory action alleged.

(2) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, award to the plaintiff actual damages and not more than \$1,000 punitive damages, and in every case shall allow the prevailing party to recover from the non-prevailing party court costs and a reasonable attorney's fee.

(3) Any sale, encumbrance, or rental consummated prior to the issuance of any court

order issued under this chapter, and involving a bona fide purchaser, encumbrance or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this chapter shall not be affected.

SECTION TEN: OBSTRUCTION AND RETALIATION.

(A) It shall be a prohibited, unlawful practice for any person:

(1) To retaliate in any manner against a person because he or she has opposed a practice unlawful by this chapter or because he or she has filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, hearing, or conference before the

City Manager, hearing officer, or Board of Commissioners under this chapter;

(2) To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this chapter or to obstruct or prevent any person from complying with the provisions of this chapter;

(3) To obstruct, or prevent a person from complying with the provisions of this chapter, or any order of the City Manager or Board of Commissioners issued thereunder; or

(4) To resist, prevent, impede, or interfere with the City Manager, the hearing officer, or the Board of Commissioners or any of its members or representatives in the lawful performance of his, her, its or their duty under this chapter.

(B) Any complaint filed with the City Manager due to a violation of this section shall be processed in conformity with Section Nine.

(C) This section shall not be construed to impose individual or personal liability on owners, supervisors, or employees in the event of alleged discrimination or retaliation.

SECTION ELEVEN: FRIVOLOUS CONDUCT.

(A) It shall be a violation of this chapter for a party to engage in frivolous conduct. Frivolous conduct shall mean conduct that serves to harass or maliciously injure another party, such as, but not limited to, filing a false or misleading claim or defense; or filing a complaint or asserting a defense that is not warranted under existing law and that cannot be supported by a good faith argument for an extension, modification, or reversal of existing law.

(B) Upon a finding by the City Manager, hearing officer, Board of Commissioners or court of law that frivolous conduct has occurred, the City Manager, hearing officer, Board of Commissioners or court of law may award reasonable attorney's fees and costs to the City of

Danville and the non-violating party against the party who engaged in such frivolous conduct.

SECTION TWELVE: ANNUAL REPORT.

The City Manager shall submit an annual report by January 30th of each calendar year to the Board of Commissioners, which report shall contain a summary the claims filed the preceding calendar year, how each was resolved, and the costs expended for same.

SECTION THIRTEEN: If any section, sentence, clause, or portion of this Ordinance is for any reason declared illegal, unconstitutional, or otherwise invalid, such declaration shall not affect the remaining portions thereof.

GIVEN FIRST READING AND PASSED _____.

GIVEN SECOND READING AND PASSED _____.

DATE OF PUBLICATION _____.

APPROVED:

BERNIE HUNSTAD, MAYOR
CITY OF DANVILLE, KENTUCKY

ATTEST:

DONNA PEEK, CITY CLERK
CITY OF DANVILLE, KENTUCKY