

ORDINANCE NO. 7, 2013 SERIES

AN ORDINANCE AMENDING CHAPTER 96, FAIR HOUSING,
SECTIONS 96.01, 96.02, 96.03, 96.04, 96.05, 96.06, 96.07, 96.08, 96.09, 96.10, 96.11, 96.12, 96.13,
96.14, 96.15, 96.16, 96.17, 96.18, 96.19, and 96.99 OF THE CITY OF FRANKFORT CODE OF
ORDINANCES.

WHEREAS, the Board of Commissioners of the City of Frankfort and the citizens of the City of Frankfort welcome diversity and believe that all individuals in Frankfort should be treated fairly, and with respect and dignity;

WHEREAS, the Board of Commissioners of the City of Frankfort wishes to discourage discrimination against individuals on the basis of race, color, religion, national origin, familial status, age, disability, sex, gender identity, or sexual orientation;

WHEREAS, the Board of Commissioners of the City of Frankfort strongly supports the treatment of all individuals with respect and dignity, regardless of an individual's race, color, religion, national origin, familial status, age, disability, sex, gender identity, or sexual orientation, including but not limited to the areas of housing, public accommodation and employment;

WHEREAS, Chapter 96 of the City of Frankfort Code of Ordinances concerns fair housing within the City of Frankfort, and the City of Frankfort Board of Commissioners desires to amend the provisions of Sections 96.01, 96.02, 96.03, 96.04, 96.05, 96.06, 96.07, 96.08, 96.09, 96.10, 96.11, 96.12, 96.13, 96.14, 96.15, 96.16, 96.17, 96.18, 96.19, and 96.99 to prohibit discrimination against individuals in housing, employment and public accommodation on the basis of race, color, religion, national origin, sex, age, gender identity, sexual orientation, familial status or disability status, and to provide for the enforcement of this ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF FRANKFORT BOARD OF COMMISSIONERS, that Chapter 96 of the City of Frankfort Code of Ordinances is hereby amended as follows.

Chapter 96: FAIR HOUSING, PUBLIC ACCOMODATIONS AND EMPLOYMENT

96.01 POLICY

It is the policy of the City of Frankfort for all individuals within the City of Frankfort to be free from discrimination in housing, employment and public accommodation because of race, color, religion, national origin, familial status, age forty (40) and over, disability, sex, gender identity, or sexual orientation.

96.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISCRIMINATION. Any direct or indirect act or practice of exclusion, restriction, segregation, limitation, refusal, denial, or any other 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. A 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 and the Commonwealth of Kentucky or one of its agencies or corporations, or an Indian Tribe.

FAMILIAL STATUS. One or more individuals who have not attained the age of 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 such custody, with the written permission of such parent or other person. 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 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, adoption or marriage.

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; and **PLACE OF PUBLIC ACCOMMODATION, RESORT OR AMUSEMENT** 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.

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

TO RENT. To lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

96.03 HOUSING, UNLAWFUL PRACTICE.

Subject to the provisions of paragraph (B) below and sections 96.07 and 96.11, the prohibitions against discrimination in the sale or rental of housing set forth in this section shall apply to:

(A) All dwellings, except as exempted by division (B) below; and

(B) Nothing in section 96.04 shall apply to:

- (1) Any single-family house sold or rented by an owner; provided, that the private individual owner does not own more than three single-family houses at any one time. In the case of the sale of any single-family house by a private individual owner not residing in the house at the time of the sale

or who was not the most recent resident of the house prior to the sale, the exemption granted by this section shall apply only with respect to one sale within any 24-month period. The bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three single-family houses at any one time. The sale or rental of any single-family house shall be excepted from the application of this chapter only if the house is sold or rented:

- (a) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, or of the facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any broker, agent, salesperson or person; and
 - (b) Without the publication, posting or mailing, after notice of any advertisement or written notice of any advertisement in violation of section 96.04, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other professional assistance as necessary to perfect or transfer the title.
- (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his or her residence.
- (C) For the purposes of division (B), a person shall be deemed to be in the business of selling or renting dwellings if:
- (1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;
 - (2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence or rental of any dwelling or any interest therein; or,
 - (3) He or she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

96.04 DISCRIMINATION IN SALES OR RENTALS.

As made applicable by section 96.03, and except as exempted by section 96.03(B) and sections 96.07 and 96.11, it shall be unlawful:

- (A) To refuse to sell or rent after the making of a bonafide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status;
- (B) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status;
- (C) 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, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status;
- (D) To represent to any person because of race, color, religion or national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status, that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available; and
- (E) 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, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status.

96.05 DISCRIMINATION IN FINANCING.

It shall be unlawful 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 commercial 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, age forty (40) and over, gender identity, sexual orientation, familial status or disability status 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 contained in this section shall impair the scope or effectiveness of the exception contained in section 96.03(B).

96.06 DISCRIMINATION IN BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions such access, membership or participation, on account of race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status.

96.07 EXEMPTION.

- (A) Nothing in this chapter shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to the persons, unless membership in the religion is restricted on account of race, color, national origin, sex, age forty (40) and over, familial status or disability status.
- (B) Nor shall anything in this chapter prohibit a private club, not in fact open to the public, which, ~~as an~~ incident to its primary purpose or purposes, provides lodgings which ~~it~~ owns or operates for other than commercial purposes from limiting the rental or occupancy of the lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

96.08 UNLAWFUL PRACTICES IN CONNECTION WITH PUBLIC ACCOMMODATIONS.

- (A) Except as otherwise provided herein, it is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement as defined in § 96.02, on the ground of race, color, religion, national origin, sex, age forty (40) and over, disability, sexual orientation or gender identity.
- (B) It shall be an unlawful practice to deny an individual, because of race, color, religion, national origin, sex, age forty (40) and over, disability, sexual orientation or gender identity, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a restaurant, hotel, motel, or any facility supported directly by government funds.
 - (1) The provisions of this subsection shall not apply to:
 - (a) Restrooms, shower rooms, bath houses and similar facilities which are in their nature distinctly private;
 - (b) YMCA, YWCA and similar type dormitory lodging facilities;

(c) The exemptions contained in the definitions of "Place of Public Accommodations, Resort or Amusement" set forth in § 96.02;

(d) Hospitals, nursing homes, penal or similar facilities, with respect to any requirement that men and women not be in the same room.

§ 96.09 UNLAWFUL PRACTICES IN CONNECTION WITH EMPLOYMENT.

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

- (1) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation; or
- (2) To limit, segregate, or classify his or her employees 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 because of such individual's race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation; or

(B) It is an unlawful practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his or her race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation, or to classify or refer for employment an individual on the basis of race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation.

(C) It is an unlawful practice for a labor organization:

- (1) To exclude or to expel from its membership or to otherwise discriminate against a member or applicant for membership because of race, color, religion, national origin, age 40 and over, disability, sex, gender identity, or sexual orientation; or
- (2) To limit segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way or manner which would deprive or tend to deprive an individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect one's status as an employee or as an applicant for employment because of such individual's race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation; or
- (3) To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(D) It is an unlawful practice for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation, in admission to or employment in, any program established to provide such apprenticeship, training, or retraining.

(E) It is an unlawful practice for any employer, labor organization, or employment agency to print or publish, or cause to be printed or published, any notice or classification or referral for employment by such a labor organization or classification or limitation, specification, or discrimination based on race, color, religion, national origin, age forty (40) and over, disability, sex, gender identity, or sexual orientation, except that such a notice or advertisement may indicate a preference, limitation, or specification, based on religion, national origin, age forty (40) and over, disability or sex when religion,

national origin, age forty (40) and over, disability or sex is a bona fide occupational qualification for employment.

(F) Nothing herein shall be construed to prevent an employer from:

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

§ 96.10 EMPLOYMENT EXCEPTIONS.

(A) Notwithstanding any other provisions 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 for 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 religion or national origin in those certain instances where religion or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise;
- (2) A religious organization, corporation, association, or society to employ an individual on the basis of his or her religion to perform work connected with the carrying on by such corporation, association, or society of its religious activity;
- (3) 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 determined by such organization to promote the religious principles for which it is established or maintained;
- (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, national origin, sex, age 40 and over, disability, gender identity, or sexual orientation, nor is it an unlawful practice for an employer to give and to act upon the results of any professionally developed competency or ability test provided that the test, its administration or action based upon the test results is not designed, intended, or used to discriminate because of race, color, religion, national origin, sex, age forty (40) and over, disability, gender identity, or sexual orientation.

Section 96.11 GENERAL EXCEPTION.

(A) The City of Frankfort 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 Chapter 96 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 to facilities. This Section shall apply in any legal or administrative proceeding brought to enforce the provisions of Chapter 96, whether or not the City or other governmental authority is a party to such proceeding.

- (B) The provisions of this Chapter regarding sexual orientation or gender identity shall not apply to a religious institution, association, society or 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, except that when such an institution or organization receives a majority of its annual funding from any federal, state, local or other governmental body or agency, or any combination thereof, it shall not be entitled to this exemption.

96.12 ADMINISTRATION.

- (A) The responsibility for administering this chapter shall be borne by the Mayor, or other individual as designated by the Mayor, as the Fairness Officer.
- (B) (1) The Mayor may delegate any of these functions, duties and powers to the State Human Rights Commission or to a designated employee of the city as appropriate and in accordance with law, 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 under this chapter.
- (C) All City departments and agencies shall administer their programs and activities relating to housing, employment and public accommodation in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Mayor or Fairness Officer to further purposes.

96.13 EDUCATION AND CONCILIATION.

Upon the enactment of this chapter or any amendments thereto, the Mayor or Fairness Officer shall commence the educational and conciliatory activities as will further the purposes of this chapter. He or she may call conferences or take other effective steps to inform persons in the housing industry, local businesses or employers and other interested parties with the provisions of this chapter and his or her suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance.

96.14 ENFORCEMENT.

- (A) Any person who claims to have been injured by a discriminatory practice made unlawful by this chapter, hereafter "person aggrieved," may file a statement alleging discriminatory treatment with the City Clerk, who shall forward such statement to the Mayor or Fairness Officer. Such statements shall be in writing, signed by the person aggrieved and shall contain the information and be in the form as the Mayor or Fairness Officer requires. Upon receipt of a statement alleging discriminatory treatment, the Mayor or Fairness Officer shall furnish a copy of same to the State Human Rights Commission, the local Human Rights Commission, and to the person or persons who allegedly committed or was about to commit the alleged discriminatory practice. The Mayor or Fairness Officer will endeavor to fully resolve the dispute within sixty (60) days of the date of the filing of the statement with the City Clerk through informal procedures such as conciliation or mediation. Nothing said or done in the course of informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the city who shall make public any information in violation of this provision without authorization shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00.
- (B) Should the Mayor or Fairness Officer be unsuccessful in resolving a statement alleging discriminatory treatment, the person aggrieved may: 1) File a Formal Complaint with the State Human Rights Commission where the Complaint is limited to allegations of discrimination based upon only race, color, religion, national origin, sex, age forty (40) and over, familial status or disability status, or 2) File a Formal Complaint with the local Human Rights Commission where the Complaint contains allegations of discrimination on the basis of gender identity, sexual orientation, as well as other discriminatory practices made unlawful by this Chapter.
- (C) The Mayor or Fairness Officer may act as a facilitator and may assist in resolving the complaint, when requested by the State Human Rights Commission or the local Human Rights Commission.
- (D) A complaint under paragraph (B)-above shall be filed with the State Human Rights Commission or local Human Rights Commission within 180 days after the alleged discriminatory practice occurred. Complaints filed with the State Human Rights Commission shall be in compliance with its rules.

Complaints filed with the local Human Rights Commission shall be in writing, signed by the person aggrieved, shall state the facts upon which the allegations of a discriminatory practice are based, and the Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him or her and with the leave of the applicable Human Rights Commission, which request for leave shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

- (E) If, within 30 days after a complaint alleging discrimination in housing is filed with the State Human Rights Commission, the State Human Rights Commission has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within 30 days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The State Human Rights Commission will assist in this filing.

96.15 CITY OF FRANKFORT COMMISSION ON HUMAN RIGHTS.

- (A) There is hereby created a City of Frankfort Human Rights Commission. It shall consist of seven (7) members who shall be appointed on a nonpartisan basis and shall be broadly representative of employers, proprietors, religious groups, human rights groups, and the general public. The Mayor shall appoint the members. Of the first members, two (2) shall be appointed for one year, two (2) shall be appointed for two years, and three (3) shall be appointed for three years; after the first appointments, all appointments shall be for a term of three years. A member chosen to fill a vacancy other than by expiration of a term shall be appointed for the unexpired term of the member who he/she is to succeed. A member of the Commission is eligible for reappointment. No elected or appointed City official shall be a member of the Commission. The members shall serve without compensation.
- (B) The Commission shall, consistent with this Chapter, encourage fair treatment and equal opportunity for all persons regardless of race, color, religion, national origin, sex, age (40 and above), gender identity, sexual orientation or disability and shall promote mutual understanding and respect among all economic, social, racial, sex, age, religious, disability and ethnic groups; and shall endeavor to eliminate discrimination against, and antagonism between groups and their members because of their race, color, religion, national origin, sex, age religion, gender identity, sexual orientation or disability.
- (C) The Commission shall administer such enforceable ordinances forbidding discrimination as the City of Frankfort Board of Commissioners may enact.

96.16 POWERS OF THE CITY OF FRANKFORT COMMISSION ON HUMAN RIGHTS.

The City of Frankfort Commission on Human Rights is authorized to:

- (1) Receive, initiate, investigate, hear, and determine Complaints alleging of violations of ordinances and orders forbidding discrimination adopted by the city. All formal hearings shall be conducted by a Hearing Officer qualified and trained in accordance with the provisions of KRS Chapter 13B. The provisions of KRS 13B.050, and KRS 13B.070 through 13B.120 shall apply to the formal hearing and the Hearing Officer shall issue to the local commission findings of fact, conclusions of law and a recommended order, which may include recommended penalties, if any.
- (2) Issue subpoenas to compel the attendance of witnesses and the production of evidence at formal hearings. When a subpoena is disobeyed, any party may apply to the Franklin Circuit Court of the judicial circuit in which the administrative hearing is held for an order requiring obedience. Failure to comply with an order of the court shall be cause for punishment as a contempt of the court.
- (3) The Franklin Circuit Court of the county wherein the local commission is authorized to act.
- (4) Issue remedial orders, after notice and hearing, requiring cessation of violations, and orders imposing the penalties set forth in section 96.99.
- (5) Employ hearing officers, clerks and other employees and agents, as needed.
- (6) Accept grants, gifts, or bequests, public or private to help finance its activities.
- (7) Enter into cooperative working agreements with the United States Equal Employment Opportunity Commission created by Section 705 of the Federal Civil Rights Act of 1964 (78 Stat. 241) in order to achieve the purposes of that act; and with any federal or state agency in order to achieve the purposes of this chapter.

- (8) Refer to the commission for resolution a dispute over jurisdiction or other matter with another local commission.
- (9) Provide a copy of its annual report to the commission.

96.17 ENFORCEMENT OF ORDERS OF THE CITY OF FRANKFORT COMMISSION ON HUMAN RIGHTS.

The proceeding for enforcement of an order of the City of Frankfort Commission on Human Rights is initiated by filing a complaint in the Franklin Circuit Court. Copies of the complaint shall be served upon all parties of record. Within thirty (30) days after the filing of the complaint by the Commission, or within such further time as the court may allow, the Commission shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including a transcript of testimony, which need not be printed. By stipulation of all parties to the proceeding, the record may be shortened. The findings of fact of the Commission shall be conclusive unless clearly erroneous in view of the probative and substantial evidence on the whole record. The court shall have power to grant such temporary relief or restraining order as it deems just, and to enter an order enforcing, modifying and enforcing as modified, or setting aside in whole or in part the order of the Commission, or remanding the case to the Commission for further proceedings.

96.18 ENFORCEMENT BY PRIVATE ACTION.

The rights granted by this chapter may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within 180 days after the alleged discriminatory practice occurred. The court shall continue the civil case brought pursuant to this section or Section 96.99 from time to time before bringing it to trial if the court believes that the conciliation efforts of the Mayor, Fairness Officer, local Human Rights Commission or State Human Rights Commission are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the court. Any sale encumbrance or rental consummated prior to the issuance of any court order issued under the authority of 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 policy shall not be affected.

96.19 PREVENTION OF INTIMIDATION.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

- (A) Any person because of his race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status, and because he or she is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization or facility relating to the business of selling or renting dwellings; or
- (B) Any person because he or she is or has been or in order to intimidate the person or any other person or any class or persons from:
 - (1) Participating, without discrimination on account of race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status, in any of the activities, services, organizations or facilities described in division (A) above; or
 - (2) Affording another person or class or persons opportunity or protection so to participate.
- (C) Any citizen because he is or has been, or in order to discourage the citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, national origin, sex, age forty (40) and over, gender identity, sexual orientation, familial status or disability status, in any of the activities, services, organizations or facilities described in division (A) above, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$500.

96.99 PENALTY.

- (A) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his or her power to do so, in obedience to the subpoena or lawful order of the State Human Rights Commission, the local Human Rights Commission or Hearing Officer, shall be fined no more than \$500. Any person who, with intent thereby to mislead the State Human Rights Commission, the local Human Rights Commission or Hearing Officer, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the State Human Rights Commission, the local Human Rights Commission or Hearing Officer pursuant to his or her subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true and correct entries in the reports, accounts, records or other documents or shall willfully mutilate, alter or by any other means falsify any documentary evidence, shall be fined not more than \$500.
- (B) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order or other order, and the court may award to the plaintiff actual damages and not more than \$1,000 punitive damages. The prevailing party may recover from the non-prevailing party the cost of the administrative proceeding, court costs and reasonable attorney fees.

First Reading on the 26th day of August, 2013.
Final Adoption on the 29th day of August, 2013.

S/William I. May, Jr.
T/Mayor

Attest:

S/Ramona W. Newman
T/City Clerk

Summary: This ordinance amends Chapter 96 of the City of Frankfort Code of Ordinances. The Fair Housing Ordinance was amended to prohibit discrimination against individuals on the basis of gender identity and sexual orientation; to prohibit discrimination in employment and public accommodation; to exempt religious institutions from the provisions of the ordinance regarding gender identity and sexual orientation; Section 96.11 contains the reference to KRS 446.350 protecting a person's exercise of his/her religious rights; the Mayor or Fairness Officer may resolve statements filed alleging discriminatory treatment under this Chapter; formal complaints alleging discrimination on the basis of other than gender identity or sexual orientation may be filed with the State Human Rights Commission for enforcement; formal complaints alleging discrimination on the basis of gender identity or sexual orientation which include additional allegations of discrimination may be filed with the local Human Rights Commission for enforcement; a seven (7) member City of Frankfort Human Rights Commission is created, with the power to determine violations of the fairness ordinance. A Hearing Officer would conduct any formal hearings, and issue findings of fact, conclusions of law and a recommended order. The Human Rights Commission would then accept the recommended order or revise it as deemed necessary. There is no automatic right of appeal from the decision of the Human Rights Commission; individuals that are the subject of illegal discrimination may file a complaint directly with the Franklin Circuit or District Court; and the penalty section is set forth in Section 96.99.

S/Robert C. Moore
T/City Solicitor

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