

CHAPTER 28

UNLAWFUL DISCRIMINATION

ARTICLE 1. POLICY

SECTION 1-1. It is hereby declared to be the policy of the City of Decatur in the exercise of its home rule powers to prohibit unlawful discrimination as hereinafter defined.

ARTICLE 2. VIOLATIONS AND GENERAL DEFINITIONS.

SECTION 2-1. It shall be unlawful, and shall constitute a human rights violation, for any person to discriminate against another person because of his or her race, color, religion, national origin, age, sex, sexual orientation, marital status, disability or unfavorable discharge from military service.

SECTION 2-2. Unlawful discrimination is prohibited in employment practices, financial credit practices, housing practices and unequal public places of accommodation practices.

SECTION 2-3. It is also a human rights violation for a person, or for two or more persons to conspire to:

A. Retaliate against a person because he or she has opposed that which he or she reasonably and in good faith believes to be unlawful discrimination, sexual harassment in employment, discrimination based on citizenship status in employment, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this Chapter;

B. Aid, abet, compel or coerce a person to commit any violation of this Chapter;
Willfully interfere with the performance of a duty or the exercise of a power by the Commission or one of its members or representatives. (Amended, Ordinance 2014-32, July 7, 2014)

SECTION 2-4. For purposes of this Article, "sexual harassment" and "citizenship status" shall have the same meaning as defined in Article 6 of this Chapter.

SECTION 2-5. For the purposes of this Chapter, the following definitions shall apply unless the context indicates or requires a different meaning:

(A) "Age" means the chronological age of a person who is at least 40 years old, except with regard to any practice described in Article 6, insofar as that practice concerns training or apprenticeship programs. In the case of training or apprenticeship programs, for the purposes of Article 6, "age" means the chronological age of a person who is 18 but not yet 40 years old.

(B) "Charge" means an allegation filed with the Human Rights Commission by an aggrieved party, pursuant to Article 4. (Amended, Ordinance 2014-32, July 7, 2014)

(C) "Commission" means the Human Relations Commission created by this Chapter.

(D) "Complainant" means a person who makes a complaint or files a charge.

(E) "Complaint" means the formal pleading filed with the Commission by an aggrieved party pursuant to Article 4. (Amended, Ordinance 2014-32, July 7, 2014)

(F) "Disability" means a determinable physical or mental characteristic of a person, including, but not limited to, a determinable physical characteristic which necessitates the person's use of a guide, hearing or support dog, the history of such characteristic, or the perception of such characteristic by the person complained against, which may result from disease, injury, congenital condition of birth or functional disorder and which characteristic:

(1) For purposes of Article 6 is unrelated to the person's ability to perform the duties of a particular job or position;

(2) For purposes of Article 8, is unrelated to the person's ability to acquire, rent or maintain a housing accommodation;

(3) For purposes of Article 9, is unrelated to a person's ability to utilize and benefit from a place of public accommodation.

(G) "Human Rights Violation" includes and shall be limited to only those specific acts set forth in Sections 2-1, 2-2, 2-3, 6-2, 8-2, 8-3, 8-4, 8-5, 8-6 and 9-2 of this Chapter.

(H) "Marital Status" means the legal status of being married, single, separated, divorced or widowed.

(I) "National Origin" means the place in which a person or one of his or her ancestors was born.

(J) "Person" includes one or more individuals, partnerships, associations or organizations, labor organizations, labor unions, joint apprenticeship committees, or union labor associations, corporations, political subdivisions, units of local government, legal representatives, trustees in bankruptcy or receivers.

(K) "Religion" includes all aspects of religious observance and practice, as well as belief, except that with respect to employers, for the purposes of Article 6, "religion" has the meaning ascribed to it in Section 6-1(I).

(L) "Respondent" means the person or organization against whom a charge or complaint has been filed.

(M) "Sex" means the status of being male or female.

(N) "Sexual Orientation" means having or being perceived as having an emotional, physical, or sexual attraction to another person without regard to the gender of that person; or having or being perceived as having an orientation for such attraction; or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. 'Sexual orientation' does not include a physical or sexual attraction to a minor by an adult. (AMENDED, Ordinance No. 2002-85, October 7, 2002)

(O) "Unfavorable Military Discharge" includes discharges from the Armed Forces of the United States, their Reserve components or any National Guard or Naval Militia which are classified as RE-3 or the equivalent thereof, but does not include those characterized RE-4 or "Dishonorable".

(P) "Unlawful Discrimination" means discrimination against a person because of his or her race, color, religion, national origin, age, sex, sexual orientation, marital status, disability or unfavorable discharge from military service.

ARTICLE 3. HUMAN RELATIONS COMMISSION.

SECTION 3-1. There is hereby created and established a commission which shall be known as the Decatur Human Relations Commission, the members of which shall serve without compensation.

SECTION 3-2. The Human Relations Commission shall consist of nine (9) residents of the City appointed by the Mayor with advice and consent of the City Council. In making appointments, the Mayor shall strive to select citizens who broadly represent the community with regard to race, color, religion, sex, national origin, disability and sexual orientation. (Amended, Ordinance 2014-32, July 7, 2014)

SECTION 3-3. The terms of members of the Human Relations Commission shall be for three years. Vacancies shall be filled by the Mayor, with such successors being appointed with the consent of the City Council. No member shall serve more than two complete successive terms.

SECTION 3-4. There shall be a chairperson of the Human Relations Commission elected by the Commission from members of the Commission. The Commission shall also elect one of its members to serve as vice chairperson and such additional officers as the Commission may, from time to time, elect to carry out its functions. A majority of members duly appointed shall constitute a quorum. A majority vote of the quorum shall constitute approval of business before it, except as otherwise expressly provided herein. Special meetings may be called by the chairperson or by not less than four (4) members of the Commission. (Amended, Ordinance 2014-32, July 7, 2014)

SECTION 3-5. A. The purpose of the Human Relations Commission shall be to further the cause of mutual understanding and respect between all groups, ethnic, religious, and otherwise, in which differences or problems regarding prejudice, intolerance, bigotry, discrimination, and disorder may arise; to foster an adjustment by all people to social problems and opportunities; to encourage a spirit of community harmony by creating channels for constructive communication between people and groups; and to further the equal enjoyment of rights, privileges, and opportunities of each person of the community.

B. The Commission may facilitate investigations in the field of human relations in accordance with the ordinances of the City of Decatur. In performing this function, the Commission shall cooperate

with the Mayor, City Council, City Manager, departments and divisions of the City, or with any other appropriate governmental agencies. (Amended, Ordinance 2014-32, July 7, 2014)

SECTION 3-6. The Commission shall at least annually report to the City Council its activities and recommendations.

ARTICLE 4. INVESTIGATION AND CONCILIATION.

SECTION 4-1. Any individual who believes that he or she has been unlawfully discriminated against may file a charge with the Human Relations Commission. Such charge must be filed within 180 days after the date that the human rights violation allegedly was committed. (Amended, Ordinance 2014-32, July 7, 2014)

SECTION 4-2. Such charge shall be a written statement, under oath or affirmation, setting forth facts alleging that a human rights violation has occurred in a manner sufficient to enable the Human Relations Commission to identify the protected class of the complainant, the specific act of discrimination alleged, and the identity of the respondent. (Amended, Ordinance 2014-32, July 7, 2014)

SECTION 4-3. Charges may be voluntarily withdrawn at the request of the complainant at any time prior to the completion of the public hearing specified in Article 5.

SECTION 4-4. The Human Relations Commission shall itself or through other means as provided by the City Council investigate allegations of discrimination set forth in any charge, and make a determination in writing whether or not there is probable cause to believe that this Chapter has been violated and on what facts such violation is based. (Amended, Ordinance 2014-32, July 7, 2014)

SECTION 4-5. If the investigation finds, with respect to any respondent, that the Commission lacks jurisdiction or that probable cause does not exist, a written notice dismissing the charge and cause shall be served on the appropriate parties by certified mail with return receipt requested. A request for such review must be filed within forty (40) days of the mailing of the notice. (Amended, Ordinance 2014-32, July 7, 2014)

SECTION 4-6. A. If it is determined that there is probable cause, at any party's request and upon mutual agreement, an attempt shall be made to eliminate the alleged discriminatory practice with

informal methods of resolution such as conference, conciliation, and mediation. (Amended, Ordinance 2014-32, July 7, 2014)

B. Nothing said or done in the course of conciliation may be used as evidence in a subsequent proceeding without the written consent of the persons concerned.

SECTION 4-7. If it is determined that probable cause does exist, a complaint shall be filed with the Commission. (Amended, Ordinance 2014-32, July 7, 2014)

SECTION 4-8. At any time after a charge is filed, the Corporation Counsel, may petition the Circuit Court for temporary relief, pending final determination of the proceedings under this Chapter, including an order or judgment restraining the respondent from doing or causing any act which would render ineffectual an order which the Commission may enter with respect to the complainant. (Amended, Ordinance 2014-32, July 7, 2014)

ARTICLE 5. PUBLIC HEARING.

SECTION 5-1. In lieu of the Commission presiding over a public hearing and hearing evidence in the matter, the City Manager of the City of Decatur, upon request of the commission, may appoint a hearing officer for the purpose of presiding over a public hearing and hearing evidence in the matter. (Amended, Ordinance No. 2009-77, October 19, 2009) (Amended, Ordinance 2014-32, July 7, 2014)

SECTION 5-2. Within five (5) days after a complaint is filed by a complainant, the Commission shall cause a copy of it to be served on the respondent together with a notice of hearing before the Commission or a hearing officer designated thereby, at a time and place therein fixed. (Amended, Ordinance 2014-32, July 7, 2014)

SECTION 5-3. The hearing shall be held not less than forty-five (45) nor more than ninety (90) days after the service of the complaint provided that the Commission, or the hearing officer, may, for good cause shown, extend the date of the hearing.

SECTION 5-4. A. A complaint may be amended under oath by leave of the Commission, or the hearing officer, for good cause shown, upon reasonable notice to all interested parties at any time prior to the commencement of the hearing thereon. Amendments to the complaint may encompass any unlawful

discrimination which is like or reasonably related to the charge and growing out of the allegations in such charge, including, but not limited to, allegations of retaliation.

B. A motion that the complaint be amended to conform to the evidence made prior to the close of the public hearing may be addressed orally on the record to the Commission, or the hearing officer conducting the public hearing, and shall be granted for good and sufficient cause.

SECTION 5-5. A. The respondent shall file an answer under oath or affirmation to the original or amended complaint within thirty (30) days of the date of service thereof, but the Commission, or the hearing officer may, for good cause shown, grant further time for the filing of an answer.

B. When the respondent files a motion to dismiss the complaint within thirty (30) days and the motion is denied by the Commission or the hearing officer, the time for filing the answer shall be within fifteen (15) days of the date of denial of the motion.

C. Any allegation in the complaint which is not denied or admitted in the answer is deemed admitted unless the respondent states in the answer that he is without sufficient knowledge or information to form a belief with respect to such allegation.

D. The failure to file an answer is deemed to constitute an admission of the allegations contained in the complaint.

E. The respondent has the right to amend his answer upon leave of the Commission or the hearing officer, for good cause shown.

SECTION 5-6. For the purpose of compelling testimony or other evidence to be brought before the Commission or the hearing officer at any hearing held pursuant to a complaint, the Commission or the hearing officer may, at the written request of either party, issue a subpoena or a subpoena duces tecum.

SECTION 5-7. A. Both the complainant and the respondent may appear and be represented by counsel at the hearing and examine and cross-examine witnesses.

B. The testimony taken at the hearing shall be under oath or affirmation and a transcript shall be made and filed in the office of the Commission.

C. The testimony taken at the hearing is subject to the same rules of evidence that apply to courts in this State in civil cases.

SECTION 5-8. A. If the hearing provided for hereby is conducted by a hearing officer, said hearing officer shall submit a recommended decision and order to the Commission upon the completion of said hearing, in a form substantially in compliance with Section 5-9 hereof. A copy of said recommended decision and order shall be served on each of the parties.

B. Within ten (10) days of the receipt of service of a hearing officer's recommended decision and order, a party may file with the Commission any written exceptions to any part of the decision and order. Exceptions shall be supported by argument and served on all parties at the time they are filed.

SECTION 5-9. At the conclusion of any hearing, or upon receipt of a recommended order from a hearing officer, the Commission shall render a decision as to whether or not the respondent has committed a human rights violation or has otherwise violated the provisions of this chapter. If it is determined that a respondent has not committed a human rights violation, the Commission shall issue, and cause to be served on the respondent and the complainant, an order dismissing the case. If it is determined that a respondent has committed a human rights violation, the Commission shall issue, and cause to be served on such respondent, an order, accompanied by findings of fact and conclusions of law, providing for any relief or penalty listed in this Article as, in the judgment of the Commission, will carry out the purposes of this Chapter.

SECTION 5-10. In dismissing a case pursuant to Section 5-9, or in approving a dismissal of a charge pursuant to Section 5-5, the Commission may award the payment to respondent by complainant of respondent's reasonable attorney's fees as well as award payment to the City of Decatur or the Commission by the complainant the costs of maintaining and conducting the public hearing including, but not limited to the costs and fees of the hearing officer and court reporter if the Commission finds that the charge or complaint was frivolous, unreasonable or groundless or that the complainant continued to litigate after it became clearly so. (Amended, Ordinance No. 2009-77, October 19, 2009)

SECTION 5-11. Upon finding a human rights violation, the Commission may direct and order the respondent to:

- 1) cease and desist from any violation of this Chapter;
- 2) pay actual damages, as reasonably determined by the Commission and supported by the evidence, for injury or loss suffered by the complainant;
- 3) hire, reinstate or upgrade the complainant with or without back-pay or provide such fringe benefits as the complainant may have been denied;
- 4) Admit or restore the complainant to labor organization membership, to a guidance program, apprenticeship training program, on the job training program, or other occupational training or retraining program;
- 5) Admit the complainant to a public accommodation;
- 6) Extend to the complainant the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of the respondent;
- 7) Pay to the complainant all or a portion of the costs of maintaining the action, including reasonable attorney fees and expert witness fees incurred in maintaining this action before the Commission and in any judicial review and judicial enforcement proceedings; (Amended, Ordinance 2014-32, July 7, 2014)
- 8) Report as to the manner of compliance;
- 9) Post notices in a conspicuous place which the Commission may publish or cause to be published setting forth requirements for compliance with this Chapter or other relevant information which the Commission determines necessary to explain this Chapter;
- 10) Take such action as may be necessary to make the individual complainant whole, including, but not limited to, awards of interest on the complainant's actual damages and back-pay from the date of the human rights violation; and,
- 11) In the case of a violation of Article 8 of this Chapter, pay to the City of Decatur a fine of not more than Five Hundred Dollars (\$500.00) for the first such offense, and not more than One Thousand

Dollars (\$1,000.00) for each subsequent offense. Each day of a continuing offense shall not be considered a separate offense for the purposes hereof; and,

12) Pay to the City of Decatur or the Commission all or a portion of the costs of maintaining and conducting the public hearing including, but not limited to the costs and fees of the investigation, the hearing officer and court reporter. (Amended, Ordinance No. 2009-77, October 19, 2009) (Amended, Ordinance 2014-32, July 7, 2014)

SECTION 5-12. If damage awards or fines ordered hereunder are not paid within thirty (30) days after they are assessed, they shall be considered to be debts to the City of Decatur or the party to whom they are owed under the terms of said order, and shall be collectible in the same manner provided by law for the collection of all other debts.

ARTICLE 6. EMPLOYMENT.

SECTION 6-1. The following definitions are applicable only as said words or phrases are used in this Article:

A. "Citizenship Status" means the status of being:

- a) a born U.S. citizen;
- b) a naturalized U.S. citizen;
- c) a U.S. national; or,
- d) a person born outside the United States and not a U.S. citizen who is not an

unauthorized alien and who is protected from discrimination under the provisions of Section 1324b of Title 8 of the United States Code, as now or hereafter amended.

B. (1) "Employee" includes:

- a) Any individual performing services for remuneration within this State for an employer;
- b) An apprentice;
- c) An applicant for any apprenticeship.

(2) "Employee" does not include:

- a) Domestic servants in private homes;
- b) Individuals employed by persons who are not "employers" as defined by this Article;
- c) Elected public officials or the members of their immediate personal staffs;
- d) Principal administrative officers of the State or of any political subdivision, municipal corporation or other governmental unit or agency;
- e) A person in a vocational rehabilitation facility certified under federal law who has been designated an evaluatee, trainee, or work activity client; and,
- f) Employees of the City of Decatur.

C. 1. "Employer" includes:

- a) Any person employing one (1) or more employees within the City of Decatur;
- b) Any political subdivision of the State or any municipal corporation or other governmental unit or agency (except the State of Illinois and its agencies and departments); and
- c) A joint apprenticeship or training committee.

2. "Employer" does not include the following:

- a) the City of Decatur;
- b) or any religious corporation, association, educational institution, society or non-profit nursing institution conducted by and for those who rely upon treatment by prayer through spiritual means in accordance with the tenets of a generally recognized church or religious denomination with respect to the exclusive employment of individuals of their own respective religion to perform work connected with the carrying on by such corporation, association, educational institution, society or non-profit nursing institution of its activities.

D. "Employment Agency" includes both public and private employment agencies and any person, labor organization, or labor union having a hiring hall or hiring office regularly undertaking, with or without compensation, to procure opportunities to work, or procure, recruit or place employees.

E. "Labor Organization" includes any organization, labor union, craft union, or any voluntary unincorporated association designed to further the cause of the rights of union labor which is constituted

for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or apprenticeships or applications for apprenticeships, or of other mutual aid or protection in connection with employment, including apprenticeships or applications for apprenticeships.

F. "Public Employee" means an employee of a unit of local government, school district, instrumentality or political subdivision.

G. "Public Employer" means a unit of local government, school district, instrumentality or political subdivision.

H. "Public Officer" means a person who is elected to office pursuant to a statute or ordinance, or who is appointed to an office which is established, and the qualifications and duties of which are prescribed, by a statute or ordinance, to discharge a public duty for a unit of local government, school district, instrumentality or political subdivision.

I. "Religion" with respect to employers includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he or she is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

J. "Sexual Harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

SECTION 6-2. It is a human rights violation:

A. For any employer to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure

or terms, privileges or conditions of employment on the basis of unlawful discrimination or citizenship status.

B. For any employment agency to fail or refuse to classify properly, accept applications and register for employment referral or apprenticeship referral, refer for employment, or refer for apprenticeship on the basis of unlawful discrimination or citizenship status or to accept from any person any job order, requisition or request for referral of applicants for employment or apprenticeship which makes or has the effect of making unlawful discrimination or discrimination on the basis of citizenship status as a condition of employment.

C. For any labor organization to limit, segregate or classify its membership, or to limit employment opportunities, selection and training for apprenticeship in any trade or craft, or otherwise to take, or fail to take, any action which affects adversely any person's status as an employee or as an applicant for employment or as an apprentice, or as an applicant for apprenticeship, or wages, tenure, hours of employment or apprenticeship conditions on the basis of unlawful discrimination or citizenship status.

D. For any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment; provided, that an employer shall be responsible for sexual harassment of the employer's employees by nonemployees or nonmanagerial and nonsupervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

E. For any public employer to refuse to permit a public employee under its jurisdiction who takes time off from work in order to practice his or her religious beliefs to engage in work, during hours other than such employee's regular working hours, consistent with the operational needs of the employer and in order to compensate for work time lost for such religious reasons. Any employee who elects such deferred work shall be compensated at the wage rate which he or she would have earned during the originally scheduled work period. The employer may require that an employee who plans to take time off

from work in order to practice his or her religious beliefs provide the employer with a notice of his or her intention to be absent from work not exceeding five (5) days prior to the date of absence.

F. For any employer, employment agency or labor organization to discriminate against a person on the basis of age in the selection, referral for or conduct of apprenticeship or training programs.

G. For an employer to request for purposes of satisfying the requirements of Section 1324a(b) of Title 8 of the United States Code, as now or hereafter amended, more or different documents than are required under such Section or to refuse to honor documents tendered that on their face reasonably appear to be genuine. It is not a human rights violation for an employer to take any action that is required by Section 1324a of Title 8 of the United States Code, as now or hereafter amended.

H. Unless otherwise authorized by law, it is a human rights violation for any employer, employment agency or labor organization to inquire into or to use arrest information or criminal history record information ordered expunged, sealed or impounded under Section 5 of the Criminal Identification Act as a basis to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment. This Section does not prohibit a State agency, unit of local government or school district, or private organization from utilizing conviction information obtained from the Department of State Police under the provisions of Section 3 of the Criminal Identification Act in evaluating the qualifications and character of an employee or a prospective employee.

SECTION 6-3. Nothing contained in this Article shall prohibit an employer, employment agency or labor organization from:

A. Hiring or selecting between persons for bona fide occupational qualifications or any reason except those human rights violations specifically identified in this Article.

B. Giving preferential treatment to veterans and their relatives as required by the laws or regulations of the United States or this State or a unit of local government.

C. Using unfavorable discharge from military service as a valid employment criterion when authorized by federal law or regulation or when a position of employment involves the exercise of fiduciary responsibilities.

D. Giving or acting upon the results of any professionally developed ability test provided that such test, its administration, or action upon the results, is not used as a subterfuge for or does not have the effect of unlawful discrimination.

E. Applying different standards of compensation, or different terms, conditions or privileges of employment pursuant to a merit or retirement system provided that such system or its administration is not used as a subterfuge for or does not have the effect of unlawful discrimination.

F. Effecting compulsory retirement of any employee who has attained 65 years of age and who, for the two (2) year period immediately preceding retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans of the employer of such employee, which equals, in the aggregate, at least \$44,000. If any such retirement benefit is in a form other than a straight life annuity (with no ancillary benefits) or if the employees contribute to any such plan or make roll-over contributions, the retirement benefit shall be adjusted so that the benefit is the equivalent of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no roll-over contributions are made.

G. Establishing an educational requirement as a prerequisite to selection for a training or apprenticeship program provided such requirement does not operate to discriminate on the basis of any prohibited classification except age.

H. Making legitimate distinctions based on citizenship status if specifically authorized or required by State or federal law.

ARTICLE 7. FINANCIAL CREDIT.

SECTION 7-1. The following definitions are applicable only as said words or phrases are used in this Article:

A. "Credit card" has the meaning set forth in Section 2.03 of the Illinois Credit Card Act.

B. "Financial institution" means any bank, credit union, insurance company, mortgage banking company, savings and loan association, or other business engaged in the lending of funds which operates or has a place of business in the City of Decatur.

C. "Loan" includes, but is not limited to, the providing of funds, for consideration, which are sought for: (1) the purpose of purchasing, constructing, improving, repairing or maintaining a housing accommodation as that term is defined in Section 8-1(C); or (2) any commercial or industrial purposes.

D. "Varying terms" includes, but is not limited to, the following practices:

(1) Requiring a greater down payment than is usual for the particular type of a loan involved.

(2) Requiring a shorter period of amortization than is usual for the particular type of loan involved.

(3) Charging a higher interest rate than is usual for the particular type of loan involved.

(4) An under appraisal of real estate or other item of property offered as security.

SECTION 7-2. It shall be a human rights violation for any financial institution, on the grounds of unlawful discrimination, to:

A. Deny any person any of the services normally offered by such an institution.

B. Provide any person with any service which is different from, or provided in a different manner than, that which is provided to other persons similarly situated.

C. Deny or vary the terms of a loan.

D. Deny or vary the terms of a loan on the basis that a specific parcel of real estate offered as security is located in a specific geographical area.

E. Deny or vary the terms of a loan without having considered all of the regular and dependable income of each person who would be liable for repayment of the loan.

F. Utilize lending standards that have no economic basis and which constitute unlawful discrimination.

SECTION 7-3. It is a human rights violation for a person who offers credit cards to the public in the City of Decatur:

A. To refuse to issue a credit card, upon proper application, on the basis of unlawful discrimination.

B. To fail to inform an applicant for a credit card, upon request, of the reason that his or her application for a credit card has been rejected.

SECTION 7-4. Nothing contained in this Article shall prohibit:

A. A financial institution from considering sound underwriting practices in contemplation of any loan to any person. Such practices shall include:

(1) The willingness and financial ability of the borrower to repay the loan.

(2) The market value of any real estate or other item of property proposed as security for any loan.

(3) Diversification of the financial institution's investment portfolio.

B. A financial institution or a person who offers credit cards from:

(1) Making an inquiry of the applicant's age, permanent residence, immigration status, or any additional information if such inquiry is for the purposes of determining the amount and probable continuance of income levels, credit history, or other pertinent element of credit-worthiness.

(2) Using any empirically derived credit system which considers age if such system is demonstrably and statistically sound, except that in the operation of such system the age of an applicant over the age of 62 years may not be assigned a negative factor or value.

C. A financial institution from refusing to extend credit when required to by or pursuant to any:

(1) credit assistance program expressly authorized by law for an economically disadvantaged class of persons.

(2) credit assistance program administered by a nonprofit organization for its members of an economically disadvantaged class of persons.

(3) special purpose credit program offered by a profit-making organization to meet special social needs.

ARTICLE 8. REAL ESTATE TRANSACTIONS.

SECTION 8-1. The following definitions are applicable only as said words and phrases are used in this Article:

A. "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

B. "Real estate transaction" includes the sale, exchange, rental or lease of real property. "Real estate transaction" also includes the brokering or appraising of residential real property and the making or purchasing of loans or providing other financial assistance:

(1) for purchasing, constructing, improving, repairing or maintaining a dwelling; or,

(2) secured by residential real estate.

C. "Housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home or residence of one or more individuals.

D. "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself or herself out as engaged in these.

E. "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with:

(1) a parent or person having legal custody of such individual or individuals; or,

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded by this Article against discrimination on the basis of familial status 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.

F. As used in this Article "Covered multifamily dwellings" means:

(1) building consisting of four (4) or more units if such buildings have one or more elevators;
and,

(2) ground floor units in other buildings consisting of four (4) or more units.

SECTION 8-2. It is a human rights violation for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman, because of unlawful discrimination or familial status, to:

A. Refuse to engage in a real estate transaction with a person or to discriminate in making available such a transaction.

B. Alter the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith.

C. Refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person.

D. Refuse to negotiate for a real estate transaction with a person.

E. Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to refuse to permit him or her to inspect real property.

F. Print, circulate, post, mail, publish or cause to be so published a written or oral statement, advertisement or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which expresses any limitation founded upon, or indicates, directly or indirectly, an intent to engage in unlawful discrimination.

G. Offer, solicit, accept, use or retain a listing of real property with knowledge that unlawful discrimination or discrimination on the basis of familial status in a real estate transaction is intended.

SECTION 8-3. A. It is a human rights violation to refuse to sell or rent or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of that buyer or renter; a disability of a person residing or intending to reside in that dwelling after it is sold, rented or made available or a disability of any person associated with the buyer or renter.

B. It is a human rights violation to alter the terms, conditions or privileges of sale or rental of a dwelling or the provision of services or facilities in connection with such dwelling because of a person's disability or a disability of any person residing or intending to reside in that dwelling after it is sold, rented or made available, or a disability of any person associated with that person.

SECTION 8-4. It is a human rights violation:

A. To refuse to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before modifications, reasonable wear and tear excepted. The landlord may not increase for disabled persons any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant. A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

B. To refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

C. In connection with the design and construction of covered multifamily dwellings for first occupancy after January 1, 1994, to fail to design and construct those dwellings in such a manner that:

(1) the public use and common use portions of such dwellings are readily accessible to and usable by disabled persons;

(2) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and,

(3) all premises within such dwellings contain the following features of adaptive design:

(i) an accessible route into and through the dwelling;

(ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) reinforcements in bathroom walls to allow later installation of grab bars; and,

(iv) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

Compliance with the appropriate standards of the Illinois Accessibility Code for adaptable dwelling units suffices to satisfy the requirements of this subsection.

SECTION 8-5. It is a human rights violation for any person to:

A. Solicit for sale, lease, listing or purchase any residential real estate within the City of Decatur, on the grounds of loss of value due to the present or prospective entry into the vicinity of the property involved of any person or persons of any particular race, color, religion, national origin, age, sex, marital status, familial status, disability or sexual orientation.

B. Distribute or cause to be distributed, written material or statements designed to induce any owner of residential real estate in the City of Decatur to sell or lease his or her property because of any present or prospective changes in the race, color, religion, national origin, age, sex, marital status, familial status, disability or sexual orientation of residents in the vicinity of the property involved.

C. Intentionally create alarm, among residents of any community, by transmitting communications in any manner, including a telephone call whether or not conversation thereby ensues,

with a design to induce any owner of residential real estate in the City of Decatur to sell or lease his or her property because of any present or prospective entry into the vicinity of the property involved of any person or persons of any particular race, color, religion, national origin, age, sex, marital status, familial status, disability or sexual orientation.

SECTION 8-6. It is a human rights violation for the owner or agent of any housing accommodation to:

A. 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 otherwise make unavailable or deny property to any blind, hearing impaired or physically disabled person because he has a guide, hearing or support dog.

B. Discriminate against any blind, hearing impaired or physically disabled person in the terms, conditions or privileges of sale or rental property, or in the provision of services or facilities in connection therewith, because he has a guide, hearing or support dog.

C. Require, because a blind, hearing impaired or physically disabled person has a guide, hearing or support dog, an extra charge in a lease, rental agreement, or contract of purchase or sale, other than for actual damage done to the premises by the dog.

SECTION 8-7. Nothing contained in this Article shall prohibit:

A. Any sale of a single family home by its owner so long as the following criteria are met:

(1) The owner does not own or have a beneficial interest in more than three (3) single family homes at the time of the sale;

(2) The owner or a member of his or her family was the last current resident of the home;

(3) The home is sold without the use in any manner of the sales or rental facilities or services of any real estate broker or salesman, or of any employee or agent of any real estate broker or salesman; and,

(4) The home is sold without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of Section 8-2(F).

B. Rental of a housing accommodation in a building which contains housing accommodations for not more than five families living independently of each other, if the lessor or a member of his or her family resides in one of the housing accommodations.

C. Rental of a room or rooms in a private home by an owner if he or she or a member of his or her family resides therein or, while absent for a period of not more than twelve months, if he or she or a member of his or her family intends to return to reside therein.

D. 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 a dwelling which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin.

E. Restricting the rental of rooms in a housing accommodation to persons of one sex.

F. Conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the federal Controlled Substances Act (21 U.S.C. 802).

G. Persons engaged in the business of furnishing appraisals of real property from taking into consideration factors other than those based on unlawful discrimination or familial status in furnishing appraisals.

H. Housing for Older Persons. No provision in this section regarding familial status shall apply with respect to housing for older persons.

(1) As used in this Section, "housing for older persons" means housing:

(a) provided under any State or Federal program that the Secretary of Housing and Urban Development has determined to be specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(b) intended for, and solely occupied by, persons 62 years of age or older; or

(c) intended and operated for occupancy by at least one person 55 years of age or older per unit.

In determining whether housing qualifies as housing for older persons under this subsection, the Commission shall develop regulations which require at least the following:

(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(ii) that at least 80% of the units are occupied by at least one person 55 years of age or older per unit; and,

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

ARTICLE 9. PUBLIC ACCOMMODATIONS.

SECTION 9-1. The following definitions are applicable only as said words and phrases are used in this Article:

A. (1) "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

(2) By way of example, but not of limitation, "place of public accommodation" includes facilities of the following types: inns, restaurants, eating establishments, hotels, taverns, barber shops, department stores, clothing stores, hat stores, shoe stores, bathrooms, restrooms, theatres, skating rinks, public golf courses, public golf driving ranges, concerts, cafes, bicycle rinks, elevators, ice cream establishments, railroads, busses, taxicabs, airplanes, boats, funeral hearses, crematories, cemeteries, and public conveyances of land, water, or air, public swimming pools and other places of public accommodation and amusement.

B. "Operator" means any owner, lessee, proprietor, manager, superintendent, agent, or occupant of a place of public accommodation or an employee of any such person or persons.

C. "Public official" means any officer or employee of state political subdivisions, municipal corporations, park districts, forest preserve districts, educational institutions and schools.

SECTION 9-2. It is a human rights violation for any person, on the basis of unlawful discrimination, to:

A. Deny or refuse to another the full and equal enjoyment of the facilities and services of any public place of accommodation.

B. Directly or indirectly, as the operator of a place of accommodation, publish, circulate, display or mail any written communication, except a private communication sent in response to a specific inquiry, which the operator knows is to the effect that any of the facilities of the place of public accommodation will be denied to any person or that any person is unwelcome, objectionable or unacceptable because of unlawful discrimination.

C. Deny or refuse to another, as a public official, the full and equal enjoyment of the accommodations, advantage, facilities or privileges of the official's office or services or of any property under the official's care because of unlawful discrimination.

SECTION 9-3. Nothing in this Article shall apply to:

A. A private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the establishment are made available to the customers or patrons of another establishment that is a place of amusement.

B. Any facility, as to discrimination based on sex, which is distinctly private in nature such as restrooms, shower rooms, bath houses, health clubs and other similar facilities.

C. Any facility, as to discrimination based on sex, which restricts the rental of rooms to individuals of one sex.

ARTICLE 10: MINORITY PARTICIPATION GOALS FOR PUBLIC WORKS CONTRACTS.

SECTION 10-1. POLICY: The City of Decatur encourages a diverse workforce for all municipal procurement and public works projects. Toward that end, the City establishes goals for

participation by Minority Business Enterprises (MBE) and minority workers for public works contracts, and incentives for procuring equipment, supplies and services for the city government from MBEs. The objectives of the minority participation goals include:

A. Ensuring non-discrimination in the award and administration of City public works contracts;

B. Encouraging a level playing field on which MBE and minority workers can compete fairly for City public works and written procurement contracts awarded based on formal submission of bids;

C. Helping to remove barriers to the participation of MBE and minority workers in the City's municipal procurement and public works contracts;

D. Promoting the use of MBE and minority workers in City public works projects;

E. Ensuring that the minority participation goals are narrowly tailored in accordance with applicable law;

F. Providing appropriate flexibility to contractors in establishing and providing opportunities for MBE inclusion and minority worker recruitment; (Amended, Ordinance No. 2020-124, August 3, 2020)

SECTION 10-2. DEFINITIONS:

A. **MINORITY:** For purposes of this Article, the City hereby adopts and incorporates by reference "minority person" as defined in the Illinois Business Enterprise for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/2.

B. **MINORITY BUSINESS ENTERPRISE (MBE):** A business that is owned and controlled by minorities. There must be not less than 51 percent minority ownership of the

business, and the minority ownership must control the management and daily operations of the business.

C. PUBLIC WORKS CONTRACTS. All City contracts entered into for the repair, remodeling, renovation or construction of public buildings, structures and rights of way.

D. PUBLIC WORKS PROJECTS. All City projects entered into for the repair, remodeling, renovation or construction of public buildings, structures and rights of way.

(Amended, Ordinance No. 2020-124, August 3, 2020)

SECTION 10-3. MINORITY PARTICIPATION GOALS IN PUBLIC PROJECTS.

A. As allowed by law, Contractors for City public works projects shall make a good faith effort to comply with the following minimum goals: (1) Ten (10) percent of the total dollar amount of the contract should be performed by Minority Business Enterprises if subcontracting opportunities are available and/or ten (10) percent of the total dollar amount of the contract should be for the purchase of goods, materials and equipment to be used for the public works project from Minority Business Enterprises with the ten (10) percent goal being met separately or in combination; and (2) Eighteen (18) percent of the total hours worked should be performed by minority workers.

B. In addition to the provisions of Section 10-3 (A) above, where a proposal or bid for a public works contract meets or exceeds twenty percent (20%) of the total dollar amount of the contract, the City will award a two percent (2%) bonus of up to a maximum of fifty thousand dollars (\$50,000). Payment of this extra amount or bonus will be made at the end of the contract and after the City has verified and documented that MBE expenditures met or exceeded twenty percent (20%) of total contract value.

C. Subcontracting is not required for a City project. If a subcontractor is used, the contractor shall make a good faith effort to meet the City's minority participation goals in the selection of subcontractors.

D. A contractor shall provide evidence of meeting the City's minority participation goals as directed and required by the Public Works Director or provide evidence that it made a good-faith effort to meet the goals.

E. A good faith effort means the contractor took reasonable and necessary steps to achieve the minority participation goals. "Good faith" means the contractor actively and aggressively sought participation by MBE sub-contractors or vendors or minority workers. The City shall consider the quality, quantity and intensity of efforts made by a contractor. The city may reject bids where, in the sole opinion of the city, the contractor failed to make a good faith effort.

F. Evidence of a good-faith effort includes, but is not limited to, as appropriate:

(i) Soliciting through all reasonable and available means the interest of MBE and minority workers;

(ii) Outreach and recruitment efforts of and to MBEs and minority workers;

(iii) Packaging requirements, when feasible, into tasks, quantities or subcontracts that permit maximum participation from MBEs and minority workers;

(iv) Providing interested MBEs and firms that employ minority workers with adequate information about the bidding process, adequate time to respond and assistance in responding to a solicitation;

(v) Negotiating in good faith with MBEs and firms that employ minority workers;

(vi) Assisting interested MBEs and firms that employ minority workers in obtaining bonding, lines of credit or insurance;

(vii) Assisting interested MBEs and firms that employ minority workers in obtaining necessary equipment, supplies or materials;

(viii) Seeking services from available minority community organizations; minority contractors' groups, minority business assistance offices and other organizations, as appropriate, to provide assistance in recruiting MBEs and minority workers;

(ix) If an MBE is rejected, providing sound reasons for rejection based on a thorough investigation of the firm;

(x) Providing payroll records or other evidence showing the percentage of minority workers employed on the project or the percentage of project hours completed by minority workers;

(xi) All other good faith efforts or evidence of due diligence to meet the City's minority participation goals.

G. The minority participation goals shall be reviewed annually by the City Manager or his designee. Any changes of the goals shall require a majority vote by Decatur City Council.

(Amended, Ordinance No. 2020-124, August 3, 2020)

SECTION 10-4. PROGRAM ADMINISTRATION:

A. The Public Works Director, his designee, or third party contractor, shall:

(i) Administer and enforce the provisions of this Article;

(ii) Monitor, track and report on contractors over the contract duration to ensure compliance with this Article.

(iii) Report to the City Council no less than annually on MBE utilization pursuant to this City Code.

(iv) Provide information to MBEs and minority workers about contractors that are seeking to recruit MBEs and minority workers.

B. The city manager shall establish policies and procedures providing that MBEs bidding on equipment, supplies and services to be purchased through written competitive bidding by the city, including public works contracts, can be awarded in certain circumstances where they may not be the lowest qualified bidder. (Amended, Ordinance No. 2020-124, August 3, 2020)

SECTION 10-5. PENALTIES:

A. If a contractor fails to meet the City's minority participation goals, falsifies MBEs documentation, and/or fails to provide evidence of a good faith effort to meet the goals, the Public Works Director or his designee may, as appropriate:

(i) Order immediate corrective action, as appropriate and practicable, to meet the minority participation goals or to show a good faith effort toward meeting the goals;

(ii) Assess a fine or penalty not to exceed \$2,000 for each offense. Each day on which a violation occurs or continues shall be considered a separate offense. The assessed fine or penalty may be deducted and withheld from the unpaid portion of the contract;

(iii) Order that the contractor will not be considered a responsive responsible bidder for future City projects for a fixed period of time and/or until the contractor provides evidence of making a good faith effort toward meeting the City's minority participation goals.

(Amended, Ordinance No. 2020-124, August 3, 2020)

SECTION 10-6. APPEALS: The penalty assessed by the Public Works Director or his designee shall be appealable to the City's Human Relations Commission.

SECTION 10-7. WAIVER:

A. If a contractor does not or cannot meet the City's minority participation goals for contracts, it may seek in writing a waiver. The waiver request shall include, as appropriate:

(i) Evidence of the contractor's good faith efforts to secure participation by MBE and minority workers;

(ii) Evidence the contractor received no proposals or inquiries from qualified MBEs or firms that employ minority workers in response to a good faith effort to secure participation.

B. The Public Works Director or his designee may, at his or her discretion, waive the minority participation goals upon finding:

(i) The project is essential for city operations;

(ii) Emergency circumstances require a waiver;

(iii) Evidence of a good faith effort by the contractor;

(iv) Evidence the contractor received no proposals or inquiries from qualified MBE or firms that employ minority workers in response to a good faith effort to secure participation. (Amended, Ordinance No. 2020-124, August 3, 2020)

ARTICLE 11. GENERAL PROVISIONS.

SECTION 11-1. The provisions of this Chapter are, and shall be construed to be, severable, and a finding of invalidity of any of such provisions by a court of competent jurisdiction shall not invalidate the other provisions hereof.

SECTION 11-2. Nothing in this Chapter shall be construed, and it is not the intent hereof, to require more costly means of compliance herewith than are required for compliance with standards set out in applicable State or Federal laws which are similar or comparable hereto. On State and Federally funded projects that have conflicting MBE rules, the provisions of this ordinance will not apply. (Amended, Ordinance No. 2020-124, August 3, 2020)