

ORDINANCE NO. \_\_\_\_\_

1           AN ORDINANCE amending Title 11 of the Lincoln Municipal Code relating to Equal  
2 Opportunity, by amending Sections 11.01.010, 11.01.020, 11.02.020, 11.02.030, 11.02.040,  
3 11.02.050, 11.02.060, 11.02.070, 11.02.075, 11.02.080, 11.02.090, 11.04.010, 11.04.030,  
4 11.04.050, 11.06.020, 11.06.030, 11.06.040, 11.06.050, 11.06.060, 11.06.065, 11.06.070,  
5 11.08.010, 11.08.040, 11.08.050, 11.08.060, 11.08.070, 11.08.075, 11.08.100, 11.08.110,  
6 11.08.120, 11.08.130, 11.08.140, 11.08.150, and 11.08.160 to revise the terms for General  
7 provisions, Equal Opportunity Administration, Equal Accommodations and Constitutional Rights,  
8 Housing, and Fair Employment Practices; adding new sections numbered 11.01.065, 11.02.076,  
9 11.02.077, 11.02.085, 11.02.087, 11.04.035, 11.06.021, 11.06.023, 11.06.075, 11.06.085,  
10 11.06.095, and 11.08.085 to make the terms and conditions for Equal Opportunity more clear and  
11 definite; repealing Sections 11.01.030, 11.01.035, 11.01.040, 11.01.050, 11.04.080, and 11.06.090  
12 to remove outdated provisions; and repealing Sections 11.01.010, 11.01.020, 11.02.020,  
13 11.02.030, 11.02.040, 11.02.050, 11.02.060, 11.02.070, 11.02.075, 11.02.080, 11.02.090,  
14 11.04.010, 11.04.030, 11.04.050, 11.06.020, 11.06.030, 11.06.040, 11.06.050, 11.06.060,  
15 11.06.065, 11.06.070, 11.08.010, 11.08.040, 11.08.050, 11.08.060, 11.08.070, 11.08.075,  
16 11.08.100, 11.08.110, 11.08.120, 11.08.130, 11.08.140, 11.08.150, and 11.08.160 of the Lincoln  
17 Municipal Code as hitherto existing.

18           NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lincoln,  
19 Nebraska:

20           Section 1. That Section 11.01.010 of the Lincoln Municipal Code be amended to read as  
21 follows:

22    **11.01.010 Definitions.**

1 As used in this ~~†~~Title, the following terms shall mean:

2 **Age** shall mean the age of any individual ~~from~~ forty years of age and older~~above~~.

3 **Aggrieved person** shall mean any person who (1) claims to have been injured by a  
4 discriminatory ~~housing~~ practice; or (2) believes that such person will be injured by a discriminatory  
5 ~~housing~~ practice that is about to occur.

6 **Attorney** shall mean the City Attorney or any attorney in the Law Department~~a member~~  
7 ~~of that department's staff~~.

8 **Commission** shall mean the Commission on Human Rights of the City of Lincoln,  
9 Nebraska or any members of the Commission who may be assigned by the Commission to hear  
10 complaints by public hearing proceedings.

11 **Complainant** shall mean the person, including the Manager of Lincoln Commission on  
12 Human Rights~~Commission~~, who files a complaint under this ~~†~~Title.

13 **Conciliation** shall mean the attempted resolution of issues raised by a complaint or by the  
14 ensuing investigation ~~of a complaint~~ through informal negotiations or mediation involving the  
15 complainant~~aggrieved person~~, the respondent, and the Commission.

16 **Covered multi-family dwelling** shall mean:

17 (1) A building consisting of four or more units if such building has one or more  
18 elevators; and

19 (2) Ground-floor units in any other building consisting of four or more units.

20 **Disability** shall mean, with respect to a person:

21 (1) A physical or mental impairment which substantially limits one or more of  
22 such person's major life activities;

23 (2) A record of having such an impairment; or

24 (3) Being regarded as having such an impairment.

1           Disability shall not include current, illegal use of or addiction to a controlled substance as  
2 defined by state law. For purposes of this Title, major life activities include, but are not limited  
3 to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking,  
4 standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking,  
5 communicating, or working. For purposes of this Title, a major life activity also includes the  
6 operation of a major bodily function, including but not limited to, functions of the immune system,  
7 normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory,  
8 endocrine, and reproductive functions.

9           For purposes of this Title, an individual meets the requirements of “being regarded as  
10 having such an impairment” if the individual establishes that they have been subjected to an action  
11 prohibited under this Title because of an actual or perceived physical or mental impairment  
12 whether or not the impairment limits or is perceived to limit a major life activity.

13           The definition of disability in this Title shall be construed in favor of broad coverage of  
14 individuals under this Title, to the maximum extent permitted by the terms of this Title.

15           **Discriminatory housing practice** shall mean an act that is unlawful as provided by  
16 Chapter 11.06.

17           **Dwelling** shall mean any building, structure, or portion thereof or mobile home which is  
18 occupied as, or designed or intended for occupancy as, a residence for one or more families, and  
19 any vacant land which is offered for sale or lease for the construction or location of any such  
20 building, structure, or portion thereof, or mobile home.

21           **Employee** shall mean an individual employed by an employer, or an applicant for  
22 employment.

23           **Employer** shall mean a person engaged in an industry who has four or more employees  
24 for each working day in each of twenty or more calendar weeks in the current or preceding calendar

1 year, and any agent of such person, but such term does not include (1) the United States  
2 government, a corporation wholly owned by the government of the United States, or an Indian  
3 tribe; ~~or~~ (2) the State of Nebraska; ~~or~~ (3) the City of Lincoln; (4) ~~the County of Lancaster~~ other  
4 political subdivisions of the State of Nebraska; ~~or~~ (4) a bona fide private membership club, other  
5 than a labor organization, which is exempt from taxation under Section 501(c) of the Internal  
6 Revenue Code ~~of 1954~~; or (6) a religious organization.

7 **Employment agency** shall mean any person regularly undertaking with or without  
8 compensation to procure employees for an employer or to procure ~~for employees~~ opportunities for  
9 employees to work for an employer and includes an agent of such person.

10 ~~Equal Opportunity Officer~~ Manager shall mean the duly appointed ~~Equal Opportunity~~  
11 ~~Officer~~ Manager of Lincoln Commission on Human Rights of the City of Lincoln or the designated  
12 representative of such person.

13 **Familial status** shall mean one or more minors being domiciled with:

- 14 (1) A parent or other person having legal custody of such minor(s) ~~individual~~; or  
15 (2) The designee of a parent or other person having legal custody, with the written  
16 permission of the parent or other person.

17 The protections afforded against discrimination on the basis of familial status shall  
18 apply to any person who is pregnant or is in the process of securing legal custody of any minor.

19 **Family** shall include a single individual.

20 Gender Identity or Expression shall mean an individual's actual or perceived gender-  
21 related identity, expression, behavior, or other characteristics of an individual with or without  
22 regard to their assigned sex at birth.

23 **Housing for older persons** shall mean:

1 (1) Housing provided under any federal, state, or local program that the United  
2 States Secretary of Housing and Urban Development ~~or the Commission~~ determines is specifically  
3 designed and operated to assist elderly persons as defined in the federal, state, or local program.;

4 (2) Housing intended for, and solely occupied by, persons sixty-two years of age  
5 or older; ~~or.~~

6 (3) Housing intended and operated for occupancy by at least one person fifty-five  
7 years of age or older per unit. ~~In determining whether housing qualifies as housing for older~~  
8 ~~persons under this subsection, the Commission shall develop regulations which require at least the~~  
9 ~~following factors:~~

10 ~~—A.— The existence of significant facilities and services specifically designed to meet the~~  
11 ~~physical or social needs of older persons or, if the provision of such facilities and services is not~~  
12 ~~practicable, that such housing is necessary to provide important housing opportunities for older~~  
13 ~~persons;~~ Housing will qualify under this subsection if:

14 AB. ~~That a~~At least eighty percent of the units are occupied by at least  
15 one person fifty-five years of age or older per unit; and

16 BC. The housing facility or community provides publication of and  
17 adherence to policies and procedures which demonstrate an intent by the owner or  
18 manager to provide housing for persons fifty-five years of age or older; and;

19 C. The housing facility or community complies with rules promulgated  
20 by the Secretary of Housing and Urban Development for fifty-five years of age or  
21 older housing.

22 Housing shall not fail to meet the requirements of housing for older persons by reason of:

1 (i) Persons residing in the housing as of the effective date of this ordinance who  
2 do not meet the age requirements of (2) or (3) above if succeeding occupants of the housing meet  
3 the age requirements; or

4 (ii) Unoccupied units if the units are reserved for occupancy by persons who meet  
5 the age requirements.

6 **Labor organization** shall mean any organization which exists wholly or in part for one or  
7 more of the following purposes: Collective bargaining; dealing with employers concerning  
8 grievances, terms, or conditions of employment; or of mutual aid or protection in relation to  
9 employment.

10 Marital status shall mean the status of an individual whether married, not married,  
11 divorced, or separated.

12 Military status shall mean an individual's present membership in the United States Armed  
13 Forces or their reserve components, including the National Guard, and the Coast Guard.

14 **Minor** shall mean any person less than 19 years of age.

15 National Origin shall mean an individual's, or their ancestors', country of birth,  
16 citizenship, tribal affiliation, or because a person has a physical, cultural, or linguistic  
17 characteristics of a national origin group.

18 **Person** shall include one or more individuals, corporations, partnerships, associations,  
19 labor organizations, legal representatives, mutual companies, joint stock companies, trusts,  
20 unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

21 **Private membership club** shall mean one that is organized and operated as a nonprofit  
22 exclusively for pleasure, or recreation, ~~and other non-profitable purposes,~~ but if any part of its  
23 earnings is used to the benefit of any private shareholder or member thereof, it shall be deemed  
24 not to be a private club. A club which engages in business, such as making its social and

1 recreational facilities available to the general public, shall not be deemed to be a private club.

2 ~~Generally, i~~It is the intent of this definition to apply to social and recreational clubs which are  
3 supported solely by membership fees, dues, and assessments.

4 **Provider** shall mean any person licensed, certified, or registered to provide professional  
5 counseling including, but not limited to, behavior analysts, licensed professional counselors,  
6 marital and family therapists or associates, physicians or assistants, osteopaths or assistants,  
7 registered or practical nurses or assistive personnel, certified nurse aides, physical or occupational  
8 therapists or assistants, psychologists or psychological associates, social workers or associates,  
9 licensed professional conservators or guardians, naturopaths, or any other person who performs  
10 counseling as part of the person's professional training. Interns, trainees, or apprentices who  
11 provide medical or mental health services under the supervision of a licensed medical or mental  
12 health professional are included as providers under this definition.

13 **Public accommodations** shall mean all places or businesses offering or holding out to the  
14 general public goods, services, privileges, facilities, advantages, and accommodations for the  
15 peace, comfort, health, welfare, and safety of the general public and such public places providing  
16 food, shelter, recreation, and amusement including, but not limited to:

17 (1) Any inn, hotel, motel, or other establishment which provides lodging to  
18 transient guests, other than an establishment located within a building which contains not more  
19 than five rooms for rent or hire and which is actually occupied by the proprietor of such  
20 establishment as ~~such~~their ~~proprietor's~~ residence;

21 (2) Any restaurant, cafeteria, lunchroom, lunch counter, ~~soda fountain~~, or other  
22 facility principally engaged in selling food or beverage for consumption on the premises,  
23 including, but not limited to, any such facility located on the premises of any retail establishment;

1 (3) Any gasoline station, including all facilities located on the premises of such  
2 station and made available to the patrons thereof;

3 (4) Any ~~motion picture house, theater~~theatre, concert hall, sports arena, stadium,  
4 or other place of exhibition or entertainment; and

5 (5) ~~Any public facility owned, operated, or managed by or on behalf of the City  
6 of Lincoln or any agency thereof, or any public corporation, and any such facility supported in  
7 whole or in part by public funds; and~~

8 ~~————(6)——~~Any establishment which is physically located within the premises of any  
9 establishment otherwise covered by this section or within the premises of which is physically  
10 located any such covered establishment, and which holds itself out as serving patrons of such  
11 covered establishment.

12 **Qualified individual with a disability** (in employment) shall mean an individual with a  
13 disability who, with or without reasonable accommodation, can perform the essential functions of  
14 the ~~job~~employment position that such individual holds or desires. For the purposes of this T~~it~~le,  
15 consideration shall be given to the employer's judgment as to what functions of a job are essential,  
16 and if an employer has prepared a written description before advertising or interviewing applicants  
17 for the job, this description shall be considered evidence of the essential functions of the job.

18 Race shall mean race, ethnic group identification, and ethnic background and is inclusive  
19 of traits historically associated with race, including, but not limited to, hair texture and protective  
20 hairstyles, such as braids, locks, and twists.

21 **Reasonable accommodation** (in employment) shall include making existing facilities  
22 used by employees readily accessible to and usable by individuals with disabilities, job-  
23 restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition  
24 or modification of equipment or devices, appropriate adjustment or modification of examinations,



1 training manuals, or policies, the provision of qualified readers or interpreters, and other similar  
2 accommodations for individuals with disabilities. Reasonable accommodation shall not include  
3 accommodations which the employer can demonstrate require significant difficulty or expense  
4 thereby posing an undue hardship upon the employer. Factors to be considered in determining  
5 whether an accommodation would pose an undue hardship shall include:

- 6 (1) The nature and the net cost of the accommodation needed under this ~~¶~~Title;
- 7 (2) The overall financial resources of the facility or facilities involved in the  
8 provision of the reasonable accommodation, the number of persons employed at such facility, the  
9 effect on expenses and resources, or the impact otherwise of such accommodation upon the  
10 operation of the facility;
- 11 (3) The overall financial resources of the employer, the overall size of the  
12 business of the employer with respect to the number of its employees, and the number, type, and  
13 location of its facilities; and
- 14 (4) The type of operation or operations of the employer, including the  
15 composition, structure, and functions of ~~its~~the work force ~~of such employer~~, and the geographic  
16 separateness and administrative or fiscal relationship of the facility or facilities in question to the  
17 employer.

18 Reasonable accommodation (in housing) shall mean a change, exception, or adjustment  
19 to a rule, policy, practice, or service as may be necessary for an individual with a disability to have  
20 an equal opportunity to use and enjoy a dwelling.

21 Reasonable modification (in housing) shall mean a modification of an existing premises  
22 as may be necessary for an individual with a disability to have full enjoyment of the premises at  
23 the expense of the disabled individual.

24 **Residential real estate-related transaction**, as used in this ~~¶~~Title, shall mean:

1 (1) The making or purchasing of loans or providing other financial assistance (i)  
2 for purchasing, constructing, improving, repairing, or maintaining a dwelling; or (ii) secured by  
3 residential real estate.

4 (2) The selling, brokering, or appraising of residential real property.

5 **Respondent** shall mean:

6 (1) The person or other entity alleged~~accused~~ in a complaint of ~~an unfair~~  
7 discriminatory housing practice;~~and~~

8 (2) An employer, employment agency, labor organization alleged in a complaint  
9 of a discriminatory employment practice;

10 (3) The person or other entity alleged in a complaint of public accommodation  
11 discrimination; or

12 (4) Any other person or entity identified in the course of an investigation and  
13 notified as required with respect to respondents so identified under this ¶Title.

14 **Restrictive covenants** shall mean any specifications limiting the transfer, rental, or lease  
15 of any real property because of race, color, religion, sex, disability, national origin, familial status,  
16 ancestry, age, ~~or~~ marital status, military status, or veteran status.

17 Sex shall mean female, male, neither, or both, and includes, but is not limited to, sexual  
18 orientation and gender identity as well as pregnancy, childbirth, and related medical conditions.

19 ~~Because of sex or on the basis of sex shall include, but not be limited to, because of or on~~  
20 ~~the basis of pregnancy, childbirth, or related medical conditions.~~

21 Sexual Harassment shall include making unwelcome sexual advances, requesting sexual  
22 favors, and engaging in other verbal or physical conduct of a sexual nature if (a) submission to  
23 such conduct is made either explicitly or implicitly a term or condition of an individual's  
24 employment, housing, or access to public accommodations, (b) submission to or rejection of such

1 conduct by an individual is used as the basis for employment, housing, or public accommodation  
2 decisions affecting such individual, or (c) such conduct has the purpose or effect of unreasonably  
3 interfering with an individual's work performance or creating an intimidating, hostile, or offensive  
4 environment in employment, housing, or public accommodations.

5 Sexual Orientation shall mean an individual's emotional, romantic, or sexual attraction  
6 or non-attraction to individuals of a different sex, the same sex, or more than one sex.

7 **Sexual Orientation or Gender Identity Change Efforts (also called "Conversion**  
8 **Therapy")** shall mean any counseling, practice, or treatment that seek to change a minor's sexual  
9 orientation or gender identity, including, but not limited to, efforts to change behaviors or gender  
10 expression, or reduce or eliminate sexual or romantic attraction or feelings toward a person of the  
11 same gender. The definition encompasses the terms "reparative therapy," "aversion therapy," and  
12 "reorientation therapy." Sexual orientation or gender identity change efforts do not include  
13 counseling that does not seek to change sexual orientation or gender identity and that:

- 14 1. Assists a person undergoing gender transition;
- 15 2. Provides acceptance, support, and understanding to the person; or
- 16 3. Facilitates a person's coping, social support, identity exploration, and development,  
17 including sexual orientation and gender identity-neutral interventions to prevent or  
18 address unlawful conduct or unsafe sexual practices.

19 **Title** shall mean Title 11 of the Lincoln Municipal Code.

20 **To rent** shall include to lease, to sublease, to let, and otherwise to grant for consideration  
21 the right to occupy the premises not owned by the occupant.

22 Veteran status shall mean having served in any unit of the United States Armed Forces or  
23 their reserve components, including the National Guard, and the Coast Guard, and including  
24 discharge status.

1 Section 2. That Section 11.01.020 of the Lincoln Municipal Code be amended to read as  
2 follows:

3 **11.01.020 Protection, Preservation, and Perpetuation of Constitutional Rights;**  
4 **Jurisdiction.**

5 It is the policy of the City of Lincoln to foster equal opportunity ~~for~~ all persons in the  
6 City regardless of their race, color, religion, sex, disability, national origin, familial status, ancestry  
7 age, ~~or~~ marital status, military status, or veteran status. Denying equal access to places of public  
8 accommodation or equal opportunity for housing or employment because of race, color, religion,  
9 sex, disability, national origin, familial status, ~~handicap~~, age, ancestry, ~~or~~ marital status, military  
10 status, or veteran status is contrary to the principles of freedom and is a burden upon the objectives  
11 of the aforestated public policy of the City of Lincoln. It is the intent, purpose, and public policy  
12 of the City of Lincoln to protect, preserve, and perpetuate all constitutional rights, including the  
13 constitutional right to freely speak, write, and publish on all lawful subjects, including the right to  
14 make a comprehensive distribution of such printed material, either commercial or noncommercial,  
15 by using the most effective lawful means or methods. Jurisdiction under this Title shall be limited  
16 to the corporate limits of the City of Lincoln.

17 Section 3. That Section 11.01.030 of the Lincoln Municipal Code be and the same is  
18 hereby repealed.

19 ~~11.01.030 — Commission; Powers and Duties; Referral to City Attorney; Civil Action by~~  
20 ~~City.~~

21 ~~(a) — If the Commission, after a public hearing as provided in Section 11.02.070 of this~~  
22 ~~title, finds that a respondent has engaged or is about to engage in a discriminatory practice, it shall~~  
23 ~~promptly issue an order for such relief as may be appropriate which may include a referral to the~~  
24 ~~City Attorney for the institution of a civil action in the district court for the recovery of actual~~

1 ~~damages suffered by the aggrieved person and for appropriate injunctive or other equitable relief;~~  
2 ~~provided, however, such civil actions shall be promptly commenced only if it is determined by the~~  
3 ~~City Attorney that a legally sufficient basis exists for the institution of such a civil action.~~

4 ~~(b) — All findings of the Commission under subsection (a) of this section shall be final~~  
5 ~~and binding upon the City.~~

6 Section 4. That Section 11.01.035 of the Lincoln Municipal Code be and the same is  
7 hereby repealed.

8 **~~11.01.035 — Discriminatory Housing Practice; Civil Penalties.~~**

9 ~~(a) — In any complaint involving discriminatory housing practices under Chapter 11.06~~  
10 ~~of this code, any order of the Commission as referred to in Section 11.01.030 may, to vindicate~~  
11 ~~the public interest, authorize the City Attorney to seek, in addition to actual damages or injunctive~~  
12 ~~or other equitable relief, a civil penalty against the respondent:~~

13 ~~(1) — In an amount not exceeding \$10,000.00 if the respondent has not been~~  
14 ~~adjudged to have committed any prior discriminatory housing practice or if subsection (2) or (3)~~  
15 ~~of this subsection does not apply;~~

16 ~~(2) — In an amount not exceeding \$25,000.00 if the respondent has been adjudged~~  
17 ~~to have committed one other discriminatory housing practice during the five-year period ending~~  
18 ~~on the date of the issuance of the current complaint; or~~

19 ~~(3) — In an amount not exceeding \$50,000.00 if the respondent has been adjudged~~  
20 ~~to have committed two or more discriminatory housing practices during the seven-year period~~  
21 ~~ending on the date of the issuance of the current complaint.~~

22 ~~(b) — If the acts constituting the discriminatory housing practice that is the object of the~~  
23 ~~complaint are committed by the same individual who has been previously adjudged to have~~  
24 ~~committed acts constituting a discriminatory housing practice, the civil penalties set forth in~~

1 ~~subsections (a)(1) and (2) of this section may be requested without regard to the period of time~~  
2 ~~within which any subsequent discriminatory housing practice occurred.~~

3 ~~(c) — No such order shall affect any contract, sale, encumbrance, or lease consummated~~  
4 ~~before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant~~  
5 ~~without actual notice of the change.~~

6 ~~(d) — In the case of an order with respect to a discriminatory housing practice that~~  
7 ~~occurred in the course of a business subject to licensing or regulation by a governmental agency,~~  
8 ~~the Commission shall, not later than thirty days after the date of the issuance of the order or, if the~~  
9 ~~order is judicially reviewed, thirty days after the order is in substance affirmed upon such review:~~

10 ~~(1) — Send copies of the findings of fact, conclusions of law, and the order to that~~  
11 ~~governmental agency; and~~

12 ~~(2) — Recommend to that governmental agency appropriate disciplinary action,~~  
13 ~~including, when appropriate, the suspension or revocation of the license or permit of the~~  
14 ~~respondent.~~

15 ~~(e) — In the case of an order against a respondent against whom another order was~~  
16 ~~issued under this section within the preceding five years, the Commission shall send a copy~~  
17 ~~of each such order to the City Attorney.~~

18 Section 5. That Section 11.01.040 of the Lincoln Municipal Code be and the same is  
19 hereby repealed.

20 ~~**11.01.040 — Temporary or Preliminary Relief; Actions Authorized.**~~

21 ~~Whenever the Commission concludes at any time following the filing of a complaint that~~  
22 ~~prompt judicial action is necessary to carry out the purposes of this title, the Commission may~~  
23 ~~authorize a civil action for appropriate temporary or preliminary relief pending final disposition of~~  
24 ~~the complaint under this title. Upon receipt of such authorization, the City Attorney shall promptly~~

1 ~~commence and maintain an action, provided, however, such civil actions shall be promptly~~  
2 ~~commenced only if it is determined by the City Attorney that a legally sufficient basis exists for~~  
3 ~~the institution of such a civil action.~~

4 Section 6. That Section 11.01.050 of the Lincoln Municipal Code be and the same is  
5 hereby repealed.

6 ~~**11.01.050 — Housing Discrimination Complaints; Civil Action in Lieu of Hearing; Relief**~~  
7 ~~**Authorized.**~~

8 ~~(a) — Any person entitled to file a complaint with the Commission pursuant to this title~~  
9 ~~may file, on their own behalf, a civil action in the district court under the provisions of Neb. Rev.~~  
10 ~~Stat. § 48-1008 (Reissue 1993) or any other applicable state or federal statute. Any such action~~  
11 ~~shall be considered an alternative to the procedures and remedies provided by this title, and the~~  
12 ~~disposition of such complaint shall be controlled by any judicial judgments or orders resulting~~  
13 ~~from such filing. The Commission shall not process any complaint initiated pursuant to this title~~  
14 ~~while an action involving the same alleged facts is pending under Neb. Rev. Stat. § 48-1008~~  
15 ~~(Reissue 1993), or any other federal or state statutes.~~

16 ~~(b) — If an election is made under Section 11.02.070(b) of this title to have the claims~~  
17 ~~asserted in the complaint decided in a civil action, the Commission shall authorize, and not less~~  
18 ~~than thirty days after the election is made the City Attorney shall, where the complaint is legally~~  
19 ~~sufficient, commence and maintain a civil action on behalf of the aggrieved person in the district~~  
20 ~~court seeking relief under this section.~~

21 ~~(c) — Any aggrieved person with respect to the issues to be determined in a civil action~~  
22 ~~under this section may intervene as of right.~~

23 ~~(d) — In a civil action under this section, if the court finds that a discriminatory~~  
24 ~~housing practice has occurred or is about to occur, the City Attorney shall request that the court~~

1 ~~grant such relief as would be available with respect to such discriminatory housing practice in a~~  
2 ~~civil action under Neb. Rev. Stat. § 20-342. Any relief so granted that would accrue to an~~  
3 ~~aggrieved person in such a civil action shall also accrue to that aggrieved person in a civil action~~  
4 ~~under this section. If monetary relief is sought for the benefit of an aggrieved person who does~~  
5 ~~not intervene in the civil action, the City Attorney shall not request such relief if that aggrieved~~  
6 ~~person has not complied with discovery orders entered by the court.~~

7 Section 7. That Chapter 11.01 of the Lincoln Municipal Code be amended to add a new  
8 section numbered 11.01.065 to read as follows:

9 **11.01.065 Coercion, Intimidation, and Retaliation Prohibited.**

10 It shall be deemed a violation of this Title for any person to (1) retaliate against any other  
11 person on account of such person availing themselves of the protections granted under this Title;  
12 or (2) penalize, obstruct, or intimidate any person for participating in any investigation of a  
13 violation of this Title, or for filing any charge under this Title, or availing themselves of any of the  
14 privileges provided by this Title; or (3) coerce or intimidate any person who refuses to violate the  
15 provisions of this Title, the laws of the State of Nebraska, or of the United States.

16 Section 8. That Section 11.02.020 of the Lincoln Municipal Code be amended to read as  
17 follows:

18 **~~11.02.020 Equal Opportunity Officer~~Manager of Lincoln Commission on Human**  
19 **Rights; Duties.**

20 ~~There is hereby established in the classified service of the City an Equal Opportunity~~  
21 ~~Officer who shall be appointed by the Mayor subject to approval by the City Council. Such officer~~  
22 (a) The Manager of Lincoln Commission on Human Rights shall be responsible for the  
23 administration and enforcement of all provisions of this Title ~~11 of the Lincoln Municipal Code~~ in  
24 the manner prescribed ~~by ordinance herein said Title 11~~. In addition, such Manager~~officer~~ shall



1 be responsible for such other administrative duties relating to human rights as shall be from time  
2 to time assigned ~~to said officer~~ by ordinance, ~~or~~ by executive order of the Mayor, or by the  
3 Commission on Human Rights.

4 (b) Under the direction of the Commission, it shall be the duty of the ~~Manager-Equal~~  
5 ~~Opportunity Officer~~ to maintain contacts with groups in the community which are concerned with  
6 understanding between ~~racess, cultures, and sexes~~ community members with varying identities and  
7 lived experiences, including protected characteristics; to report to the Commission regarding the  
8 activities of these groups; to serve as a source of accurate and reliable data on the problems in the  
9 above-mentioned fields; to implement the decisions of the Commission; to work in cooperation  
10 with the ~~D~~irectors of all municipal departments and other governmental divisions in the  
11 improvement of services; to eliminate whatever source of interracial friction may exist; to work to  
12 remove ~~inequalities-inequities~~ which ~~pertain to~~ harm Black, Indigenous, and People of Color  
13 ~~minority groups' status, disabled~~ individuals with disabilities, and ~~women~~ lesbian, gay, bisexual,  
14 and transgender individuals on such ~~problems-issues~~ as housing, recreation, education,  
15 employment, law enforcement, vocational guidance, and related matters; to serve as secretary to  
16 the Commission (without the right to vote on matters before the Commission on Human Rights)  
17 for purposes of receiving correspondence, discrimination complaints, and other legal and nonlegal  
18 communications, and to keep and record all records and communications of the Commission; and  
19 to do and perform such investigatory activities as the Commission shall within its jurisdiction  
20 direct.

21 (c) The Manager of Lincoln Commission on Human Rights shall commence such  
22 educational and conciliatory activities as in such person's judgment will further the purposes of  
23 this Chapter. Such Manager shall call conferences of persons in the housing industry, employers,  
24 and other interested persons to acquaint them with the provisions of this Title and suggest means

1 for implementing them; and such Manager shall endeavor, with their advice, to develop and  
2 implement programs of voluntary compliance and of enforcement.

3 (d) The Manager of Lincoln Commission on Human Rights or the Manager's staff and  
4 such other persons who may be retained for such purpose to conduct investigations of any  
5 complaint alleging discrimination because of race, color, religion, sex, disability, national origin,  
6 familial status, age, ancestry, marital status, military status, or veteran status and in aid of such  
7 investigation, shall be authorized to subpoena records or witnesses and compel their attendance,  
8 and to attempt to resolve such complaints by conference or conciliation, and conduct such  
9 conciliation meetings and conferences as are deemed necessary to resolve a particular complaint.

10 (e) The Manager of Lincoln Commission on Human Rights may file, in a like manner  
11 to a complaint by a complainant, a verified complaint of an alleged unfair discriminatory practice  
12 whenever there is reason to believe an illegal discriminatory practice has occurred, but this  
13 complaint must contain a bill of particulars setting out dates, names of witnesses, and the facts  
14 upon which the complaint is based.

15 (f) The Manager of Lincoln Commission on Human Rights may, in their discretion,  
16 decline to accept complaints from complainants due to a conflict of interest or if it is impracticable  
17 to do so.

18 Section 9. That Section 11.02.030 of the Lincoln Municipal Code be amended to read as  
19 follows:

20 **11.02.030 Commission on Human Rights; Established; Appointment of Members;**  
21 **Terms; Quorum; Removal.**

22 (a) Pursuant to the provisions of Article X of the eCharter of the City of Lincoln, there  
23 is hereby established a ~~Human Rights~~ Commission on Human Rights which shall consist of nine

1 members who shall be a representative cross-section of community members ~~the citizens~~ of the  
2 City appointed by the Mayor and ~~subject to confirmation~~ confirmed by the City Council.

3 (b) All appointments to the Commission shall be for a term of three years ~~each~~. No  
4 person shall serve more than two full consecutive three-year terms on the Commission, excluding  
5 a prior partial term served. Members of the Commission shall receive no compensation for their  
6 services.

7 (c) Five members of the Commission, ~~unless otherwise provided by its rules and~~  
8 ~~regulations~~, shall constitute a quorum for the purpose of conducting the business thereof and a  
9 majority ~~affirmative or negative~~ vote of those present shall be required in order ~~for~~ the  
10 Commission to act on any matter before it. ~~A vacancy in the Commission shall not impair the~~  
11 ~~right of the remaining members to perform the duties of the Commission.~~

12 (d) The Commission shall hold regular meetings during the year. The Chairperson or  
13 Vice-Chairperson, in the absence of the Chairperson, or any three members may call a special  
14 meeting by giving at least three (3) days' notice to every member of the Commission. The notice  
15 for a special meeting shall include an agenda and only matters included in that agenda may be  
16 discussed at the meeting.

17 (e) ~~No member or members of the Commission shall attempt to act on any matter over~~  
18 ~~which the Commission has jurisdiction unless and until the full commission has given prior~~  
19 ~~approval to such action.~~ Any member of the Commission may be removed by the Mayor for  
20 inefficiency, neglect of duty, misconduct, or malfeasance in office after being given a written  
21 statement of the charges and an opportunity to be heard thereon.

22 (f) The Commission may recommend to the Mayor, and Mayor and City Council may,  
23 upon that recommendation or independently, remove a Commissioner for malfeasance or

1 nonfeasance in office, for neglect of duty, or for any cause that renders a member ineligible to hold  
2 office or incapable or unfit to discharge the duties thereof.

3 Section 10. That Section 11.02.040 of the Lincoln Municipal Code be amended to read as  
4 follows:

5 **11.02.040 Commission on Human Rights; Powers and Duties.**

6 The provisions of this Title shall be administered by the Commission on Human Rights  
7 for the City of Lincoln. The City Attorney is granted the authority to enforce this Title. In carrying  
8 out the provisions of this Title, the Commission shall act as an advisory body to the Mayor, City  
9 Council, and ~~Equal Opportunity Officer~~Manager of Lincoln Commission on Human Rights on all  
10 matters within its jurisdiction and shall have the power to:

11 (a) Review those actions of the ~~Equal Opportunity Officer~~Manager of Lincoln  
12 Commission on Human Rights as provided by this Title, and affirm or reverse such actions as  
13 may be necessary to further the purposes of this Title. If any such actions are reversed, the  
14 Commission shall then direct the ~~Equal Opportunity Officer~~Manager of Lincoln Commission on  
15 Human Rights in appropriate courses of action to further such purposes;:-

16 (b) Institute actions to educate the public as to unlawful discriminatory practices and  
17 the enforcement measures provided in this Title for the prevention and punishment of such  
18 practices;:-

19 (c) Enforce the provisions of this Title by appropriate measures, ~~including the~~  
20 ~~requiring of affirmative action on the part of violators of such provisions in order to correct such~~  
21 ~~violations, and by~~ such as ordering such violators to cease and desist from doing any act in  
22 violation of this Title;:-

23 (d) Seek to eliminate and prevent discrimination in places of public accommodation,  
24 housing, and employment as provided in this Title on the basis of race, color, religion, sex,

1 disability, national origin, familial status, ancestry, age, ~~or~~ marital status, military status, or veteran  
2 status:-

3 (e) Effectuate the purposes of this Title by conference, mediation, or conciliation, ~~and~~  
4 ~~persuasion~~ so that persons may be guaranteed their civil rights and goodwill may be fostered:-

5 (f) Formulate policies to effectuate the purposes of this Title and to make  
6 recommendations to agencies and officers of the city government in aid of such policies and  
7 purposes, and to advocate for the rights of ~~women, minorities~~ individuals of all genders, lesbian,  
8 gay, bisexual, and transgender individuals, Black, Indigenous, and People of Color, and ~~disabled~~  
9 individuals with disabilities and promote causes in the name of the Commission before agencies  
10 and legislative bodies on matters of human rights:-

11 (g) Designate one or more members of the Commission, or the ~~Equal Opportunity~~  
12 ~~Officer~~ Manager of Lincoln Commission on Human Rights, or the ~~Equal Opportunity Officer's~~  
13 Manager of Lincoln Commission on Human Rights staff and such other persons who may be  
14 retained for such purpose to conduct investigations of any complaint alleging discrimination  
15 because of race, color, religion, sex, disability, national origin, familial status, ancestry, age, ~~or~~  
16 marital status, military status, or veteran status and in aid of such investigation, subpoena records  
17 or witnesses and compel their attendance, and to attempt to resolve such complaint by conference,  
18 mediation, or conciliation, ~~or persuasion~~ and conduct such conferences, mediations, and  
19 conciliation meetings ~~and conferences~~ as are deemed necessary to resolve a particular complaint:-

20 (h) Determine whether reasonable cause exists to credit the allegations of a complaint;  
21 ~~provided, that reasonable cause may be determined by any Commission committee of at least three~~  
22 ~~commissioners or a Commission appointed hearing officer, and such committee's or hearing~~  
23 ~~officer's actions shall be deemed to be the action of the Commission.~~

1 (i) Determine that a complaint cannot be resolved by conference, mediation, or  
2 conciliation, ~~or persuasion.~~

3 (j) Dismiss complaints when it is determined there is not reasonable cause to credit the  
4 allegations of a complaint, or when a complainant requests the withdrawal of such complaint.

5 In the event that a complainant cannot be reasonably located, or circumstances are such that the  
6 complainant's complaint cannot be finally disposed of, the Commission shall have authority to  
7 administratively close such investigation of such complaint; ~~If no further action is taken on such~~  
8 ~~claim for a period of four years from the date of closure, the complaint shall then be deemed~~  
9 ~~dismissed without prejudice.~~

10 (k) Hold hearings in aid thereof, subpoena witnesses and compel their attendance, and  
11 administer oaths, take testimony of any person under oath and in connection therewith require for  
12 examination any books or papers relating to any matter under investigation or in question before  
13 the Commission;

14 (l) Issue publications and the results of studies and research which will tend to promote  
15 goodwill and minimize or eliminate discrimination because of race, color, religion, sex, disability,  
16 national origin, familial status, ancestry, age, ~~or~~ marital status, military status, or veteran status;

17 (m) Recommend damages, based on actual pecuniary loss, attorney fees, or other  
18 penalties, or ~~such other~~ damages as the Commission or Commission-appointed hearing officer may  
19 determine should be assessed against a respondent violating the provisions of this Title as set forth  
20 in Sections 11.02.076 and 11.02.077. Additionally, the Commission may require such other  
21 remedial measures to accomplish the purposes of this ~~€~~Title as the Commission may deem  
22 necessary or appropriate, which. ~~Such remedial measures~~ may include providing equal  
23 opportunity or fair housing training and directing the display of equal access to public

1 accommodations or housing posters, equal employment posters, and such other informational  
2 materials as ~~the Commission may deem~~ appropriate; and.

3 ~~—(n)— The Commission may file in a like manner a verified complaint of an alleged unfair  
4 discriminatory practice whenever there is reason to believe an unfair discriminatory practice has  
5 occurred, but this complaint must contain a bill of particulars setting out dates, names of witnesses,  
6 and the facts upon which the complaint is based.~~

7 ~~(e)—(n) The Commission may, a~~After the filing of a complaint, request the City Attorney  
8 to institute appropriate legal proceedings to protect the rights and privileges of the complainant  
9 provided by this ~~†~~Title.

10 Section 11. That Section 11.02.050 of the Lincoln Municipal Code be amended to read as  
11 follows:

12 **11.02.050 Commission on Human Rights; Rules and Regulations; Adoption.**

13 The Commission on Human Rights may promulgate such rules and regulations consistent  
14 with the provisions of this Title ~~11 of the Lincoln Municipal Code~~ as shall be necessary for it to  
15 properly perform its powers and duties thereunder; provided, no proposed rule or regulation before  
16 the Commission shall be adopted until the Commission shall have held a public hearing thereon  
17 after notice to the public as required by state law and Article IV, Section 29 of the City Charter.

18 Section 12. That Section 11.02.060 of the Lincoln Municipal Code be amended to read as  
19 follows:

20 **11.02.060 Discriminatory Practice in Employment and Public Accommodation;**  
21 **Complaint; Notice; Investigation; Conference, Mediation, and Conciliation.**

22 (a) This subsection applies to all complaints alleging illegal employment or public  
23 accommodation discrimination filed under this Title.

1           (b) Any person claiming to be subjected to~~aggrieved, as herein defined, by~~ an unlawful  
2 discriminatory practice may by themselves, their agent, or their attorney, file with the Commission  
3 a verified complaint in writing which shall state the name and address of the person alleged to have  
4 committed the unlawful discriminatory practice complained of within one year of the date upon  
5 which complainant has knowledge of such discriminatory practice, and which shall set forth the  
6 particulars thereof and contain such other information in a form as may be required by the  
7 Commission.

8           (c) After the filing of such complaint, the Commission shall send notice to the  
9 complainant acknowledging the filing and advising the complainant of the time limits and choice  
10 of forums available under this Title. The Commission shall also ~~furnish the person named in the~~  
11 ~~complaint~~ serve notice on the respondent, within ten (10) days of the filing of the complaint; with  
12 a copy of the complaint, ~~which~~ and notice identifying the alleged discriminatory practice and of  
13 ~~complaint shall~~ setting forth the procedures, rights, and obligations of said respondents as it relates  
14 to such complaint.

15 ~~— The Commission shall thereafter make an investigation of such complaint, but such~~  
16 ~~complaint shall not be made public by the Commission. If the Commission determines, after such~~  
17 ~~investigation, that there is reasonable cause to believe that the complaint is true, the Commission's~~  
18 ~~representative or agent shall endeavor to eliminate any such alleged unlawful practice by informal~~  
19 ~~methods of conference, conciliation, or persuasion.~~

20 ~~— The processing of a complaint shall be as follows:~~

21 ~~(a) — Within thirty days after receiving a complaint, or within thirty days after receiving~~  
22 ~~reference of a complaint pursuant to 42 U.S.C. 3610(f), the Commission shall begin to investigate~~  
23 ~~the complaint and determine whether reasonable cause exists to credit the allegations of the~~  
24 ~~complaint. Unless good cause is shown, such investigation shall be concluded within 100 days of~~



1 ~~the filing or receipt of such complaint and such complaint shall be resolved no later than one year~~  
2 ~~after such filing or receipt. If such investigation or resolution of such complaint is not completed~~  
3 ~~within the prescribed time limits, the complainant and respondent shall be notified of such delay~~  
4 ~~and the reasons therefor.~~

5 ~~(b) When the Commission has completed its investigation and made its determination~~  
6 ~~concerning such complaint in any subsequent proceeding brought under this title, the burden of~~  
7 ~~proof shall be upon the complainant.~~

8 ~~(c) In conducting an investigation, the Commission or its agent shall have access at all~~  
9 ~~reasonable times to premises, records, documents, individuals, and other evidence or possible~~  
10 ~~sources of evidence, and may examine, record, and copy such materials and take and record the~~  
11 ~~testimony or statement of such persons as are reasonably necessary for the furtherance of the~~  
12 ~~investigation; provided, that such evidence shall not be made public except as otherwise herein~~  
13 ~~provided. However, the complainant or respondent or their respective counsel may review the~~  
14 ~~Commission's investigatory file, but neither party nor their counsel may make public the contents~~  
15 ~~of such files except as herein provided.~~

16 (d) Each respondent may file, not later than twenty (20) days after receipt of notice  
17 from the Commission, an answer to such employment or public accommodation complaint and  
18 not later than ten (10) days after receipt of notice of such housing complaint.

19 (e) The Manager of Lincoln Commission on Human Rights and investigators shall  
20 thereafter make an investigation of such complaint to determine whether reasonable cause exists  
21 to credit the allegations of the complaint. Such complaint shall not be made public by the  
22 Commission. In conducting an investigation, the Manager of Lincoln Commission on Human  
23 Rights and investigators shall have access at all reasonable times to premises, records, documents,  
24 individuals, and other evidence or possible sources of evidence, and may examine, record, and

1 copy such materials and take and record the testimony or statement of such persons as are  
2 reasonably necessary for the furtherance of the investigation; provided, that such evidence shall  
3 not be made public except as otherwise provided by the Commission's rules and regulations. If  
4 the Commission determines, after such investigation, that there is reasonable cause to believe that  
5 the complaint is true, the Commission's representative or agent shall endeavor to eliminate any  
6 such alleged unlawful practice by informal methods of conference, mediation, or conciliation.

7 (f) If the complaint is successfully resolved through conference, mediation, or  
8 conciliation, the written agreement of the parties shall be formalized and signed by the Chairperson  
9 or a designated representative of the Commission, the Manager of Lincoln Commission on Human  
10 Rights, the complainant, and the respondent.

11 (g) Whenever the Commission has reasonable cause to believe the respondent has  
12 breached a conciliation agreement, the Commission shall refer the matter to the City Attorney  
13 with a recommendation that a civil action be filed to enforce such agreement.

14 (h) If the Commission determines that reasonable cause exists regarding the allegations  
15 of the Complaint, the Commission staff shall commence efforts to eliminate the discriminatory  
16 practice by conference, mediation, and conciliation for a period of at least thirty (30) days after the  
17 reasonable cause finding. After the expiration of thirty (30) days, the Manager of Lincoln  
18 Commission on Human Rights may order that the conference and conciliation efforts have failed.

19 Section 13. That Section 11.02.070 of the Lincoln Municipal Code be amended to read as  
20 follows:

21 **11.02.070 Discriminatory Practice; Failure of Informal Proceedings; Charge; Notice;**  
22 **Judicial Election (for Housing Discrimination Charges); Public Hearing;**  
23 **Findings and Order of the Commission.**

1 (a) This subsection governs all complaints filed under any provision of this Title unless  
2 otherwise indicated.

3 (b) In case of failure to eliminate any unlawful discriminatory practice by informal  
4 methods of conference, ~~or conciliation, or persuasion,~~ after a determination of reasonable cause on  
5 a complaint of an unlawful discriminatory practice, the Commission shall, within ten (10) days of  
6 such failure, cause to be issued and served in the name of the Commission a charge requiring the  
7 person or persons named in the charge, hereinafter referred to as "respondent," to answer the  
8 allegations of the charge within twenty (20) days of the receipt of such charge and appear at a  
9 public hearing at a time and place to be specified in the charge. Said charge shall set out the  
10 requirements for responding to such charge and shall advise the respondent of the effect of the  
11 failure to respond to such charge. Copies of the charge shall also be served upon ~~the charging~~  
12 ~~party~~complainant and on each ~~aggrieved~~ person on whose behalf the charge was filed. Where a  
13 charge arises under the provisions of Chapter 11.06 (Housing), the charge shall also advise parties  
14 as to how to make an election under subparagraph (c) of this section.

15 (c) When a charge is issued under Chapter 11.06 (Housing), a charging party, a  
16 respondent, or an aggrieved person on whose behalf the charge was filed may elect to have the  
17 claims asserted in that charge decided in a civil action ~~under Section 11.01.050 of this title~~ in lieu  
18 of a hearing under subparagraph (d) of this section. The election must be made not later than  
19 twenty (20) days after service has been made under subparagraph (b) of this section. The person  
20 making the election shall give written notice of doing so to the Commission and to all other  
21 charging parties and respondents to whom the charge relates.

22 (d) Public hearings shall be conducted ~~either~~ by a hearing officer appointed by the  
23 Commission, ~~or before such members of the Commission as the Commission may determine. No~~  
24 ~~commissioner shall sit on or participate in any hearing of a charge of which such commissioner~~

1 ~~may have personal knowledge or may have participated in the investigation thereof.~~ Such hearing  
2 officer shall be an attorney licensed to practice in the State of Nebraska for a period of three years  
3 immediately prior to such appointment. Such hearing officer shall be compensated from funds  
4 appropriated by the City Council for such purpose to the ~~Human Rights~~ Commission.

5 (e) The hearing officer shall commence the hearing under this section no later than one  
6 hundred twenty (120) days following the filing of the Charge, unless it is impracticable to do so.  
7 If the hearing officer is unable to commence the hearing within one hundred twenty (120) days  
8 after the filing, the hearing officer shall notify the Commission, the complainant, and the  
9 respondent in writing of the reasons for not doing so.

10 ~~(f)~~ Charges issued by the Commission shall be presented at such public hearing by an  
11 attorney on the staff of the City Attorney, ~~and the investigator who made the investigation and any~~  
12 ~~commissioner who may have been involved in any investigations or proceedings prior to the~~  
13 ~~commencement of such proceedings shall not participate in the hearings except as a witness, nor~~  
14 ~~will such investigator or commissioner participate in the deliberation by the Commission.~~

15 (g) If, upon all the evidence adduced at the hearing, the hearing officer finds, by a  
16 preponderance of the evidence, ~~or the Commission members hearing the charge find~~ that a  
17 respondent has engaged in an unlawful discriminatory practice as defined in this ~~†~~Title, the hearing  
18 officer ~~or such commissioners~~ shall make findings of fact, conclusions of law, and  
19 recommendation of relief and shall reduce same to writing. Such findings of fact, conclusions of  
20 law, and recommendations for relief by the hearing officer ~~and commissioners~~ shall be submitted  
21 to the Commission for entry of an appropriate order. The Commission shall issue and cause to be  
22 served on the parties such final order in the name of the Commission executed by the chair of such  
23 Commission, ~~requiring the respondent to cease and desist from the unlawful discriminatory~~  
24 ~~practice and to take such affirmative action including, but not limited to, the extension of full,~~

1 ~~equal, and unsegregated accommodations, advantages, facilities, and privileges to all persons as~~  
2 ~~in the judgment of the Commission will effectuate the purposes of this title, including a~~  
3 ~~requirement for a report of the manner of compliance and, in addition, the Commission may enter~~  
4 ~~such orders providing such relief as provided by this title, and providing for the placement of equal~~  
5 ~~opportunity posters and materials as the Commission may deem appropriate.~~ The Commission  
6 shall issue an order for such relief as may be appropriate, which may include actual damages  
7 suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to  
8 vindicate the public interest, assess a civil penalty against the respondent and include, but is not  
9 limited to, any and all relief found in Sections 11.02.076 and 11.02.077.

10 (h~~f~~) If, upon all the evidence adduced at the hearing, the hearing officer ~~hearing the~~  
11 ~~charge or the commissioners hearing the charge~~ finds that a respondent has not engaged in any  
12 unlawful discriminatory practice, such hearing officer ~~or commissioners~~ shall make findings of  
13 fact and shall reduce the same to writing. Such findings of fact by the hearing officer shall be  
14 submitted to the Commission for entry of an appropriate order. The Commission shall issue and  
15 cause to be served on the ~~charging parties~~ an final order executed by the chair of the Commission  
16 dismissing the charge as to the respondent and shall make public disclosure of each such dismissal.

17 (i) The hearing officer may not continue administrative proceedings regarding any  
18 alleged discriminatory practice after the beginning of the trial of a civil action commenced by the  
19 complainant under federal or state law, seeking relief with respect to that discriminatory practice.

20 (j~~g~~) The ~~commissioners or~~ hearing officer shall file with the Commission the~~r~~ findings  
21 of fact, conclusions of law, and recommendations for relief within ~~sevensixty (60) calendar~~ days  
22 of the completion of the public hearing.

1 (k) The Commission's final order shall be made a part of the record of the proceedings.  
2 The entire record shall be filed with the Commission and shall be available for public inspection  
3 during regular office hours.

4 (l) The transcript of the record of the proceedings shall consist of the following:  
5 verified complaint, as the same may have been amended or supplemented; ~~the~~ charge; the answer  
6 to the charge, as the same may have been amended; notice of hearing; transcript or recording of  
7 testimony; exhibits; depositions; written applications; orders; stipulations; final order of the  
8 Commission, and such other documents~~matters~~ as may properly become a part of the record.

9 (m) Such orders of the Commission may be appealed to the District Court for Lancaster  
10 County as provided by Neb. Rev. Stat. § 15-1201, et seq.

11 Section 14. That Section 11.02.075 of the Lincoln Municipal Code be amended to read as  
12 follows:

13 **11.02.075 Hearings; Rules.**

14 (a) In conducting such public hearing, the hearing officer ~~or presiding commissioner~~  
15 shall make every effort to develop a substantive record and shall make such inquiry of the parties  
16 as to elicit pertinent evidence to assist the ~~Commission or the~~ hearing officer in making their  
17 decision.

18 (b) Hearings need not be conducted according to the ~~technical~~ rules of evidence.  
19 However, oral evidence shall be taken only on oath or affirmation. The production of further  
20 evidence upon any issue may be ordered. All motions and objections made during a public hearing  
21 shall be stated ~~orally~~ on the record and shall, with the ruling on such motions or objections by the  
22 hearing officer ~~or presiding commissioner conducting the hearing~~, be included in the record of the  
23 hearing.

1 (c) The ~~complainant~~~~charging parting~~ or respondent may appear at the hearing with or  
2 without counsel, present evidence, and compel the appearance of witnesses and records ~~on~~~~in~~ such  
3 ~~complainant's~~~~charging party's~~ or respondent's behalf. Upon written application to the  
4 Commission, a ~~charging party~~~~complainant~~ or respondent shall be entitled to the issuance of a  
5 reasonable number of subpoenas to the same extent and subject to the same limitations as  
6 subpoenas issued for the Commission. Subpoenas issued at the request of ~~a charging party~~ ~~a~~  
7 ~~complainant~~ or respondent shall show on their face the name and address of such party and shall  
8 state that they were issued at the request of the ~~charging party~~~~complainant~~ or respondent. The  
9 ~~charging party~~~~complainant~~ or respondent may cross-examine the witnesses. The testimony taken  
10 at the hearing shall be under oath ~~or affirmation~~ and be transcribed by ~~a~~ ~~an official~~  
11 ~~stenographer~~~~court reporter~~. Such ~~stenographic~~ records need not be reduced to writing unless  
12 requested by one of the parties to the public hearing or the Commission.

13 (d) The hearing officer ~~or presiding commissioner~~ shall have full authority to:

- 14 (1) Make all decisions regarding the admissions and exclusions of evidence;
- 15 (2) Administer oaths and affirmations;
- 16 (3) Control the proceedings;
- 17 (4) Interrogate witnesses;
- 18 (5) Rule upon all objections and motions;
- 19 (6) Exclude from the hearing room or from further participation in the  
20 proceedings any person who engages in improper conduct at the hearing;
- 21 (7) ~~Sequester~~~~Exclude~~ witnesses from the hearing room at the request of either  
22 party;
- 23 (8) Authorize and set times for the filing of briefs.

1 (e) If either the respondent or the complainant fails to appear at the public hearing after  
2 being served with due notice of the time and place thereof, the hearing officer ~~or presiding~~  
3 ~~commissioner~~ may conduct the hearing. The hearing officer ~~or presiding commissioner~~ may either  
4 consider the evidence presented at the hearing and may make recommendations thereon or make  
5 a "finding of default" for the party in attendance at the hearing.

6 Section 15. That Chapter 11.02 of the Lincoln Municipal Code be amended to add a new  
7 section numbered 11.02.076 to read as follows:

8 **11.02.076 Commission Order; Remedies and Relief.**

9 (a) If, upon taking into consideration all the evidence at hearing, the Commission  
10 determines that the respondent has engaged in a discriminatory or retaliatory practice, the  
11 Commission shall state its findings of fact and conclusions of law and shall issue an order requiring  
12 the respondent to cease and desist from the discriminatory or retaliatory practice and to take the  
13 necessary remedial action, as in the judgment of the Commission, will carry out the purposes of  
14 this Title. A copy of the order shall be delivered to the respondent, the complainant, and to any  
15 other public officers and persons as the Commissions deems appropriate.

16 (b) For the purposes of this section and pursuant to the provisions of this Chapter,  
17 “remedial action” may include any equitable relief that the Commission considers appropriate, but  
18 is not limited to the following:

19 (1) Granting temporary, preliminary, or permanent relief;

20 (2) Hiring, reinstatement, or upgrading of employees with or without pay,  
21 interim earned income and unemployment compensation shall operate to reduce the pay otherwise  
22 allowable;

23 (3) Admission or restoration of individuals to a labor organization, admission  
24 to or participation in a guidance program, apprenticeship training program, on-the-job training



1 program, or other occupational training or retraining program, with the utilization of objective  
2 criteria in the admission of individuals to such programs;

3 (4) Admission of individuals to a public accommodation or an educational  
4 institution;

5 (5) Providing an auxiliary aid or service, modification of policy, practice, or  
6 procedure, or alternative method;

7 (6) Making facilities readily accessible to and usable by individuals with  
8 disabilities in new construction, and alterations, or through barrier removal or other activities;

9 (7) Sale, exchange, lease, rental, assignment, or sublease of real property to an  
10 individual;

11 (8) Extension to all individuals of the full and equal enjoyment and of the  
12 advantages, facilities, privileges, and services of the respondent denied to the complainant because  
13 of the discriminatory or unfair practice;

14 (9) Reporting as to the manner of compliance;

15 (10) Posting notices in conspicuous places in the respondent's place of business  
16 in a form prescribed by the Commission and inclusion of notices in advertising material;

17 (11) Payment to the complainant of damages for injury caused by the  
18 discriminatory or unfair practices which damages shall include, but are not limited to, actual  
19 damages, court costs, and reasonable attorney fees.

20 (12) Other relief the Commission considers appropriate including monetary  
21 damages, fines, and civil penalties as provided in Section 11.02.077.

22 (c) In addition to the remedies provided in the preceding provision of this subsection,  
23 the Commission may issue an order requiring the respondent to cease and desist from the

1 discriminatory or retaliatory practice and to take such affirmative action as in the judgment of the  
2 Commission will carry out the purposes of this Title as follows:

3 (1) In the case of a respondent operating by virtue of a license issued by the State  
4 of Nebraska, the City of Lincoln, any licensing agency of the United States, or any board,  
5 commission, department, agency, or other political subdivision or part thereof within the City of  
6 Lincoln, if the Commission, upon notice to the respondent with an opportunity to be heard,  
7 determines that the respondent has engaged in a discriminatory or retaliatory practice and that the  
8 practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated  
9 by the board of directors of the respondent or by any officer or executive agency acting within the  
10 scope of the officer's or agent's employment, the Commission shall so certify to the licensing  
11 agency by sending copies of the findings of fact, conclusions of law, and the final order to that  
12 governmental agency and recommend to that governmental agency appropriate disciplinary action,  
13 including, but not limited to, the suspension or revocation of the license or permit of the  
14 respondent.

15 (2) In the case of a respondent who is found by the Commission to have  
16 engaged in a discriminatory or retaliatory practice in the course of performing under a contract or  
17 subcontract with the State of Nebraska or City of Lincoln, or any board, commission, department,  
18 agency, or other political subdivision or part thereof within the City of Lincoln, if the practice was  
19 authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board  
20 of directors of the respondent or by any officer or executive agent acting within the scope of the  
21 officer's or agent's employment, the Commission shall so certify to the contracting agency.

22 (d) The election of an affirmative action order under paragraph (c) of this subsection,  
23 shall not bar the election of affirmative remedies provided in paragraph (b) of this subsection.

1 Section 16. That Chapter 11.02 of the Lincoln Municipal Code be amended to add a new  
2 section numbered 11.02.077 to read as follows:

3 **11.02.077 Civil Penalties.**

4 (a) In any complaint involving discriminatory housing, employment, or public  
5 accommodation practices, any final order of the Commission may, to vindicate the public interest,  
6 authorize the City Attorney to seek, in addition to actual damages or injunctive or other equitable  
7 relief, a civil penalty against the respondent:

8 (1) In an amount not exceeding \$10,000.00 if the respondent has not been  
9 adjudged to have committed any prior discriminatory practice under this Title or if subsection (2)  
10 or (3) of this subsection does not apply;

11 (2) In an amount not exceeding \$25,000.00 if the respondent has been adjudged  
12 to have committed one other discriminatory practice under this Title during the five-year period  
13 ending on the date of the issuance of the current complaint; or

14 (3) In an amount not exceeding \$50,000.00 if the respondent has been adjudged  
15 to have committed two or more discriminatory practices during the seven-year period ending on  
16 the date of the issuance of the current complaint.

17 (b) In the cases arising under Chapter 11.06 of this Title, if the acts constituting the  
18 discriminatory practice that is the object of the complaint are committed by the same person who  
19 has been previously adjudged to have committed acts constituting a discriminatory housing  
20 practice, the civil penalties set forth in subsections (a)(1) and (2) of this Section may be requested  
21 without regard to the period of time within which any subsequent discriminatory housing practice  
22 occurred.

1 (c) No such final order shall affect any contract, sale, encumbrance, or lease  
2 consummated before the issuance of such order and involving a bona fide purchaser,  
3 encumbrancer, or tenant without actual notice of the change.

4 (d) In the case of a final order with respect to a discriminatory housing practice that  
5 occurred in the course of a business subject to licensing or regulation by a governmental agency,  
6 the Commission shall, not later than thirty (30) days after the date of the issuance of the final order  
7 or, if the formal order is judicially reviewed, thirty (30) days after the final order is affirmed upon  
8 such review:

9 (1) Send copies of the findings of fact, conclusions of law, and the final order to  
10 that governmental agency; and

11 (2) Recommend disciplinary action to that governmental agency, including,  
12 when appropriate, the suspension or revocation of the license or permit of the respondent.

13 (e) In the case of a final order against a respondent against whom another final order  
14 was issued under this Section within the preceding five years, the Commission shall send a copy  
15 of each such final order to the City Attorney.

16 Section 17. That Section 11.02.080 of the Lincoln Municipal Code be amended to read as  
17 follows:

18 **11.02.080 Informal Conciliation Efforts ~~Proceedings~~ to be Confidential; ~~Violation;~~**  
19 **~~Penalty.~~**

20 Nothing said or done during or as a part of ~~efforts~~endeavors to eliminate an alleged  
21 unlawful practice by informal methods of conference, mediation, or conciliation, ~~or persuasion as~~  
22 ~~set forth in Section 11.02.040~~ may be made public by the Commission without the written consent  
23 of all the parties or used as evidence in a subsequent proceedings.

1 Section 18. That Chapter 11.02 of the Lincoln Municipal Code be amended to add a new  
2 section numbered 11.02.085 to read as follows:

3 **11.02.085 Temporary or Preliminary Relief; Actions Authorized.**

4 Whenever the Commission concludes, at any time following the filing of a complaint, that  
5 prompt judicial action is necessary to carry out the purposes of this Title, the Commission may  
6 authorize a civil action for appropriate temporary or preliminary relief pending final disposition of  
7 the complaint under this Title. Upon receipt of such authorization, the City Attorney shall  
8 promptly commence and maintain an action, provided such civil actions shall be promptly  
9 commenced only if it is determined by the City Attorney that a legally sufficient basis exists for  
10 such a civil action.

11 Section 19. That Chapter 11.02 of the Lincoln Municipal Code be amended to add a new  
12 section numbered 11.02.087 to read as follows:

13 **11.02.087 Complaint; Civil Action in Lieu of Hearing; Relief Authorized.**

14 Any person entitled to file a complaint with the Commission pursuant to this Title may file,  
15 on their own behalf, a civil action in the district court under the provisions of any applicable state  
16 or federal statute. Any such action shall be considered an alternative to the procedures and  
17 remedies provided by this Title, and the disposition of such complaint shall be controlled by any  
18 judicial judgments or orders resulting from such filing. The Commission shall not process any  
19 complaint initiated pursuant to this Title while a civil action involving the same alleged facts is  
20 pending.

21 Section 20. That Section 11.02.090 of the Lincoln Municipal Code be amended to read as  
22 follows:

23 **11.02.090 Annual Report.**

1 ~~On or before the first day of February of each year, t~~The Commission shall make a written  
2 report to the Mayor and City Council of its activities for the preceding year and of the status of  
3 human rights and equal opportunity in the City of Lincoln.

4 Section 21. That Section 11.04.010 of the Lincoln Municipal Code be amended to read as  
5 follows:

6 **11.04.010 Full and Equal Enjoyment of Place of Public Accommodation.**

7 All persons within the City of Lincoln shall be entitled to a full and equal enjoyment of any  
8 place of public accommodation, as defined in Section 11.01.010, without discrimination or  
9 segregation on the grounds of race, color, sex, religion, national origin, ancestry, disability, ~~or~~  
10 marital status, military status, or veteran status. ~~Every totally or partially blind person shall have~~  
11 ~~the right to be accompanied by a dog guide, especially trained for the purpose, in any place of~~  
12 ~~public accommodation without being required to pay an extra charge for the dog guide.~~

13 Section 22. That Section 11.04.030 of the Lincoln Municipal Code be amended to read as  
14 follows:

15 **11.04.030 Refusal, Withholding From, or Denial of, Public Accommodations; Unlawful.**

16 Any person who directly or indirectly refuses, withholds from, denies, or attempts to refuse,  
17 withhold, or deny to any person the accommodations, advantages, facilities, services, or privileges  
18 otherwise available in a place of public accommodation on the basis of race, color, sex, religion,  
19 national origin, ancestry, disability, ~~or~~ marital status, military status, or veteran status shall be  
20 guilty of discriminatory practice and shall be subject to the penalties set forth in this ~~t~~ Title.

21 Section 23. That Chapter 11.04 of the Lincoln Municipal Code be amended to add a new  
22 section numbered 11.04.035 to read as follows:

23 **11.04.035 Service Animal.**

1           (a) Any person or place of public accommodation shall make reasonable changes in  
2 polices, practices, and procedures when necessary to afford goods, services, facilities, privileges,  
3 advantages, or accommodations to individuals with disabilities, unless the public accommodation  
4 can demonstrate that making the changes would fundamentally alter the public accommodation.

5           (b) A service animal shall include any dog or miniature horse that is individually  
6 trained to do work or perform tasks for the benefit of an individual with a disability, including a  
7 physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals,  
8 whether wild or domestic, trained or untrained, are not service animals. The work or tasks  
9 performed by a service animal must be directly related to the individual's disability.

10           (c) A service animal shall be under the control of its handler. A service animal shall  
11 have a harness, leash, or other tether, unless either the handler is unable because of a disability to  
12 use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere  
13 with the service animal's safe, effective performance of work or tasks, in which case the service  
14 animal must be otherwise under the handler's control.

15           (d) A public accommodation shall not ask about the nature or extent of an individual's  
16 disability. A public accommodation may ask if the animal is required because of a disability and  
17 what service the animal has been trained to perform. A public accommodation shall not require  
18 documentation that the animal has been certified, trained, or licensed as a service animal. A public  
19 accommodation may not make these inquiries about a service animal when it is readily apparent  
20 that an animal is trained to perform tasks for an individual with a disability.

21           (e) A public accommodation is not responsible for the care or supervision of a service  
22 animal.

23           (f) A public accommodation may ask an individual with a disability to remove a  
24 service animal from the premises if: (1) the service animal is out of control and the animal's handler

1 does not take effective action to control it; or (2) the service animal is not housebroken. If a public  
2 accommodation excludes a service animal under the aforementioned exceptions, it shall give the  
3 individual with a disability the opportunity to obtain goods, services, or accommodations without  
4 having the service animal on the premises.

5 (g) A public accommodation shall not ask or require an individual with a disability to  
6 pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with  
7 other requirements generally not applicable to people without pets. If a public accommodation  
8 normally charges individuals for the damage they cause, an individual with a disability may be  
9 charged for damage caused by their service animal.

10 Section 24. That Section 11.04.050 of the Lincoln Municipal Code be amended to read as  
11 follows:

12 **11.04.050** ~~**Retaliation or Discrimination Because of Assisting in Enforcement of This**~~  
13 ~~**Chapter; Unlawful**~~**Participation in Investigation, Proceeding or Hearing;**  
14 **Discrimination or Retaliation Unlawful.**

15 It shall be unlawful for any person to in any manner retaliate or discriminate against any  
16 person who has opposed any activity prohibited by the provisions of this eChapter or who has  
17 made a complaint, testified, assisted, or participated in any manner in any investigation,  
18 proceeding, or hearing conducted pursuant to this eChapter.

19 Section 25. That Section 11.06.020 of the Lincoln Municipal Code be amended to read as  
20 follows:

21 **11.06.020 Unlawful Acts Enumerated.**

22 Except as exempted by Section 11.06.070, it shall be unlawful to:

23 (a) Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate  
24 for the sale or rental of, or otherwise make unavailable or deny, or to refuse to show, or to refuse



1 to receive and transmit an offer for, a dwelling to any person because of race, color, religion, sex,  
2 disability, national origin, familial status, ~~handicap~~, ancestry, ~~or~~ marital status, military status, or  
3 veteran status;

4 (b) Discriminate against any person in the terms, conditions, privileges of sale or rental  
5 of a dwelling, or in the provision of service or facilities in connection therewith, because of race,  
6 color, religion, sex, disability, national origin, familial status, ~~handicap~~, ancestry, ~~or~~ marital status,  
7 military status, or veteran status;

8 (c) Make, print, or publish, or cause to be made, printed, or published, any notice,  
9 statement, or advertisement with respect to the sale or rental of a dwelling that indicates any  
10 preference, limitation, or discrimination based on race, color, religion, sex, disability, national  
11 origin, familial status, ~~handicap~~, ancestry, ~~or~~ marital status, military status, or veteran status or an  
12 intention to make any such preference, limitation, or discrimination;

13 (d) Represent to any person because of race, color, religion, sex, disability, national  
14 origin, familial status, ~~handicap~~, ancestry, ~~or~~ marital status, military status, or veteran status that  
15 any dwelling is not available for inspection, sale, or rental when such dwelling is, in fact, so  
16 available;

17 (e) Cause to be made any written or oral inquiry or record concerning the race, color,  
18 religion, sex, disability, national origin, familial status, ~~handicap~~, ancestry, ~~or~~ marital status,  
19 military status, or veteran status of a person seeking to purchase, rent, or lease any  
20 dwellinghousing;

21 (f) Include in any transfer, sale, rental, or lease of any dwellinghousing any unlawful  
22 restrictive covenants, or to honor or exercise or attempt to honor or exercise any unlawful  
23 restrictive covenants pertaining to housing related to race, color, religion, sex, disability, national  
24 origin, familial status, ancestry, marital status, military status, or veteran status;

1 (g) Discharge or demote an employee or agent or discriminate in the compensation of  
2 such employee or agent because of such employee's or agent's obedience to the provisions of this

3 ~~e~~Chapter;

4 (h) Induce or attempt to induce, for profit, any person to sell or rent any dwelling by  
5 representation regarding the entry or prospective entry into the neighborhood of a person or  
6 persons of a particular race, color, religion, sex, disability, national origin, familial status,  
7 ~~handicap~~, ancestry, ~~or~~ marital status, military status, or veteran status;

8 (i) Discriminate in the sale or rental of or otherwise make unavailable or deny a  
9 dwelling to any buyer or renter because of a ~~disability~~handicap of:

10 (1) The buyer or renter;

11 (2) Any person associated with the buyer or renter; or

12 (3) A person residing in or intending to reside in the dwelling after it is so sold,  
13 rented, or made available.

14 (j) Discriminate against any person in the terms, conditions, or privileges of sale or  
15 rental of a dwelling or in the provision of services or facilities in connection with a dwelling  
16 because of a ~~disability~~handicap of:

17 (1) Such person;

18 (2) Any person associated with such person; or

19 (3) A person residing in or intending to reside in the dwelling after it is so sold,  
20 rented, or made available.

21 Section 26. That Chapter 11.06 of the Lincoln Municipal Code be amended to add a new  
22 section numbered 11.06.021 to read as follows:

23 11.06.021 Commission; Powers and Duties; Referral to City Attorney; Civil Action by  
24 City.

1           (a) If the Commission, after a public hearing, finds that a respondent has engaged or is  
2 about to engage in a discriminatory housing practice, it shall issue a final order for such relief as  
3 may be appropriate which may include a referral to the City Attorney for the institution of a civil  
4 action in the district court for the recovery of actual damages suffered by the aggrieved person and  
5 for appropriate injunctive or other equitable relief; provided, however, such civil actions shall be  
6 commenced only if it is determined by the City Attorney that a legally sufficient basis exists and  
7 it is prudent to institute such an action.

8           (b) All findings of the Commission under subsection (a) of this Section shall be final  
9 and binding upon the City.

10           Section 27. That Chapter 11.06 of the Lincoln Municipal Code be amended to add a new  
11 section numbered 11.06.023 to read as follows:

12 **11.06.023 Housing Discrimination Complaints; Civil Action in Lieu of Hearing; Relief**  
13 **Authorized.**

14           (a) Any aggrieved person entitled to file a complaint with the Commission pursuant to  
15 this Title may file, on their own behalf, a civil action in the district court under the provisions of  
16 any applicable state or federal statute. Any such action shall be considered an alternative to the  
17 procedures and remedies provided by this Title, and the disposition of such complaint shall be  
18 controlled by any judicial judgments or orders resulting from such filing. The Commission shall  
19 not process any complaint initiated pursuant to this Title while a civil action involving the same  
20 alleged facts is pending.

21           (b) Any aggrieved person with respect to the issues to be determined in a civil action  
22 under this Section may intervene as of right.

23           (c) In a civil action initiated by the City Attorney under this Section, if the court finds  
24 that a discriminatory housing practice has occurred or is about to occur, the City Attorney shall

1 request that the court grant such relief as would be available with respect to such discriminatory  
2 housing practice in a civil action under the Nebraska Fair Housing Act. Any relief that could  
3 accrue to an aggrieved person in such a civil action shall also accrue to that aggrieved person in a  
4 civil action under this Section. If monetary relief is sought for the benefit of an aggrieved person  
5 who does not intervene in the civil action, the City Attorney shall not request such relief if that  
6 aggrieved person has not complied with discovery orders entered by the court.

7 Section 28. That Section 11.06.030 of the Lincoln Municipal Code be amended to read as  
8 follows:

9 **11.06.030 Housing Accommodations; Modification; Discrimination Defined.**

10 For purposes of Section 11.06.020(i) and (j), discrimination shall include:

11 (a) A refusal to permit, at the expense of the individual with a disability~~handicapped~~  
12 ~~person~~, reasonable modifications of existing premises occupied or to be occupied by the  
13 individual~~person~~ if the modifications may be necessary to afford the individual~~person~~ full  
14 enjoyment of the premises, except that in the case of a rental, the landlord may, when it is  
15 reasonable to do so, condition permission for a modification on the renter agreeing to restore the  
16 interior of the premises to the condition that existed before the modification, reasonable wear and  
17 tear excepted;

18 (b) A refusal to make reasonable accommodations in rules, policies, practices, or  
19 services when such accommodations may be necessary to afford the individual with a disability  
20 ~~handicapped person~~ equal opportunity to use and enjoy a dwelling; and

21 (c) In connection with the design and construction of covered multi-family dwellings  
22 for first occupancy after March 13~~September 1~~, 1991, a failure to design and construct the  
23 dwellings in such manner that:

1 (1) The public use and common use portions of the dwellings are readily  
2 accessible to and usable by individuals with disabilities~~handicapped persons~~;

3 (2) All the doors designed to allow passage into and within all premises within  
4 the dwellings are sufficiently wide to allow passage by individuals with disabilities~~handicapped~~  
5 ~~persons~~ in wheelchairs; and

6 (3) All premises within the dwellings contain the following features of adaptive  
7 design:

8 (i) An accessible route into and through the dwelling;

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

11 (iii) Reinforcements in bathroom walls to allow later installation of grab  
12 bars; and

13 (iv) Kitchens and bathrooms such that an individual with a disability  
14 ~~handicapped person~~ in a wheelchair can maneuver about the space.

15 (v) At least one dwelling entrance on an accessible route, unless it is  
16 impracticable to do so because of the terrain or unusual  
17 characteristics of the site.

18 Compliance with the appropriate requirements of the American National Standards  
19 Institute standard for buildings and facilities providing accessibility and usability for individuals  
20 with disabilities~~physically handicapped people~~, ANSI A117.1, shall satisfy the requirements of  
21 subsection (c)(3) of this ~~s~~Section.

22 Nothing in this ~~s~~Section shall require that a dwelling be made available to an  
23 individual whose tenancy would constitute a direct threat to the health or safety of other individuals  
24 or whose tenancy would result in substantial physical damage to the property of others.

1 Section 29. That Section 11.06.040 of the Lincoln Municipal Code be amended to read as  
2 follows:

3 **11.06.040 Dog Guide; Access to Housing Accommodations; Terms and Conditions.**

4 ~~Every totally or partially blind person who has a dog guide or who obtains a dog guide~~  
5 ~~shall have full and equal access to all housing accommodations with such dog guide. Such person~~  
6 ~~shall not be required to pay extra compensation for such dog guide. Such person shall be liable~~  
7 ~~for any damage done to such premises by such dog guide. Any person who rents, leases, or~~  
8 ~~provides housing accommodations for compensation may demand or receive a reasonable dog~~  
9 ~~guide deposit, not to exceed one fourth of one month's periodic rent, from any totally or partially~~  
10 ~~blind person who has or obtains a dog guide.~~

11 **Reasonable Accommodations for Assistance Animals in Housing.**

12 Under this Section, housing providers and those involved in any real estate transactions  
13 shall make reasonable accommodations to pet policies when necessary to accommodate the  
14 aggrieved party's disability. For the purposes of this Section, an assistance animal is not a pet but  
15 rather an animal that provides assistance, or performs tasks for the benefit of a person with a  
16 disability, or provides emotional support that alleviates one or more identified symptoms or effects  
17 of a person's disability. Assistance animals may perform many disability-related functions,  
18 including but not limited to, guiding individuals who are blind or have low vision, alerting  
19 individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance,  
20 pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing  
21 emotional support to persons who have a disability-related need for such support.

22 Section 30. That Section 11.06.050 of the Lincoln Municipal Code be amended to read as  
23 follows:

24 **11.06.050 Discriminatory Denial of Loan; Unlawful.**

1 It shall be unlawful for any bank, building and loan association, insurance company, or  
2 other corporation, association, firm, or enterprise whose business consists in whole or in part ~~of in~~  
3 the making of commercial real estate loans within the city, to deny a loan or other financial  
4 assistance to a person applying therefor for the purpose of purchasing, constructing, ~~making of~~  
5 ~~commercial real estate loans within the city, to deny a loan or other financial assistance to a person~~  
6 ~~applying therefore for the purpose of purchasing, constructing,~~ improving, repairing, or  
7 maintaining a dwelling, or to discriminate against a person in the fixing of the amount, interest  
8 rate, duration, or other terms or conditions of such loan or other financial assistance because of  
9 race, color, religion, sex, national origin, familial status, ~~handicap~~, disability, ancestry, ~~or~~ marital  
10 status, military status, or veteran status of such person or of any person associated with such person  
11 in connection with such loan or other financial assistance for the purposes of such loan or other  
12 financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the  
13 dwelling or dwellings in relation to which such loan or other financial assistance is to be made or  
14 given; provided, that nothing contained in this ~~s~~Section shall impair the scope or effectiveness of  
15 the exceptions contained in Section 11.06.070.

16 Section 31. That Section 11.06.060 of the Lincoln Municipal Code be amended to read as  
17 follows:

18 **11.06.060 Discrimination in Multiple Listing Service or Other Real Estate Service**  
19 **Organization; Discriminatory Refusal of Access or Membership; Unlawful.**

20 It shall be unlawful to deny any person access to or membership or participation in any  
21 multiple listing service, real estate brokers' organization, or other service, organization, or facility  
22 relating to the business of selling or renting dwellings, or to ~~participate or~~ discriminate against any  
23 person in the terms or conditions of such access, membership, or participation on account of race,

1 color, religion, sex, national origin, disability, ancestry, familial status, ~~or~~ marital status, [military](#)  
2 [status, or veteran status.](#)

3 Section 32. That Section 11.06.065 of the Lincoln Municipal Code be amended to read as  
4 follows:

5 **11.06.065 Residential Real Estate Transactions; Discriminatory Refusal to Make**  
6 **Available Transactions.**

7 (a) It shall be unlawful for any person or other entity whose business includes engaging  
8 in transactions related to residential real estate to discriminate against any person in making  
9 available such a transaction or in the terms or condition of such a transaction because of race,  
10 color, religion, sex, familial status, national origin, marital status, disability, ~~or~~ ancestry, [military](#)  
11 [status, or veteran status.](#)

12 (b) For purposes of this ~~s~~Section, a transaction related to residential real estate shall  
13 mean any of the following:

14 (1) The making or purchasing of loans or providing other financial assistance:

15 (i) For purchasing, constructing, improving, repairing, or maintaining  
16 a dwelling; or

17 (ii) Secured by residential real estate. ~~;~~ ~~or~~

18 (2) The selling, brokering, or appraising of residential real property.

19 (c) Nothing in this ~~s~~Section shall prohibit a person engaged in the business of  
20 furnishing appraisals of real property from taking into consideration factors other than race, color,  
21 religion, national origin, ancestry, sex, disability, marital status, ~~or~~ familial status, [military status,](#)  
22 [or veteran status.](#)

23 Section 33. That Section 11.06.070 of the Lincoln Municipal Code be amended to read as  
24 follows:



1 **11.06.070 Exceptions; Religious or Private Clubs; Private Homes; Housing for Older**  
2 **Persons.**

3 (a) Nothing in this eChapter shall prohibit a religious organization, association, or  
4 society or any non-profit institutional organization operated, supervised, or controlled by or in  
5 conjunction with a religious organization, association, or society from limiting the sale, rental, or  
6 occupancy of a dwelling which it owns or operates for other than commercial purposes to persons  
7 of the same religion, or from giving preferences to such persons, unless membership in such  
8 religion is restricted on account of race, color, ~~or~~ national origin, or any other protected  
9 characteristic under this Title.

10 (b) Nothing in this Chapter (except Section 11.06.020(c)) shall apply to rooms or units  
11 in dwellings containing living quarters occupied or intended to be occupied by no more than four  
12 families living independently of each other, if the owner actually maintains and occupies one of  
13 such living quarters as their residence.

14 (c) Nothing in this eChapter shall prohibit a private club not in fact open to the public,  
15 which, as an ~~instance~~ incident to its primary purpose or purposes, provides lodging, which it owns  
16 or operates for other than commercial purposes, from limiting the rental or occupancy of such  
17 lodging to its members or from giving preference to its members.

18 ~~(c) — Nothing in this chapter (except Section 11.06.020(c)) shall prohibit or limit the right~~  
19 ~~of any person or their authorized representative to refuse to rent a room or rooms in such person's~~  
20 ~~own home for any reason, or for no reason, or to change the tenants in such home as often as may~~  
21 ~~be desired; provided, that this exception shall not apply to any person who makes available for~~  
22 ~~rental or occupancy more than four sleeping rooms to a person or a family within such home.~~

23 (d) Nothing in this eChapter shall limit the applicability of restrictions regarding the  
24 maximum number of occupants permitted to occupy a dwelling, and nothing in this eChapter

1 regarding familial status shall apply with respect to housing for older persons as defined in Section  
2 11.01.010.

3 (e) Nothing in this Chapter shall prohibit conduct against a person because such  
4 person has been convicted by any court of competent jurisdiction of the illegal manufacture or  
5 distribution of a controlled substance as defined by state law.

6 Section 34. That Chapter 11.06 of the Lincoln Municipal Code be amended to add a new  
7 section numbered 11.06.075 to read as follows:

8 **11.06.075 Aiding, Abetting, Inciting, Compelling, or Coercing Violation; Unlawful.**

9 It shall be unlawful to aid, abet, coerce, intimidate, threaten, or interfere with any person  
10 on account of such person availing themselves of the protections granted under this Chapter or  
11 aiding any other person in the protections granted under this Chapter.

12 Section 35. That Chapter 11.06 of the Lincoln Municipal Code be amended to add a new  
13 section numbered 11.06.085 to read as follows:

14 **11.06.085 Participation in Investigation, Proceeding, or Hearing; Discrimination or**  
15 **Retaliation Unlawful.**

16 It shall be unlawful for any person to in any manner retaliate or discriminate against any  
17 person who has opposed any activity prohibited by the provisions of this Chapter or who has made  
18 a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or  
19 hearing conducted pursuant to this Chapter.

20 Section 36. That Section 11.06.090 of the Lincoln Municipal Code be and the same is  
21 hereby repealed.

22 ~~**11.06.090 — Complaint; Failure to Show Housing; Order.**~~

23 ~~If a complaint is based on an alleged failure to show housing, the commission, after~~  
24 ~~investigation and determination that probable cause exists for crediting the allegation in the~~

~~1 complaint, shall at the direction of the chairperson of the commission issue a written order upon  
2 the respondent named in the complaint that the housing involved be shown to the complainant.  
3 Such written order shall be final and not subject to review by the commission. If the respondent  
4 refuses without good cause to comply with such order within three days, the chairperson of the  
5 commission, in their discretion, may refer such order together with a full written report of the facts  
6 to the City Attorney for the institution of such action as the City Attorney may deem necessary,  
7 which may include the filing of a petition for injunctive relief in the district court seeking  
8 enforcement of such order. In such cases, if the court finds that the refusal to show is based on an  
9 unfair housing practice, the City Attorney shall request a court order directing the respondent to  
10 immediately show such housing and to make full disclosure to the public of all information  
11 concerning such housing.~~

12 Section 37. That Chapter 11.06 of the Lincoln Municipal Code be amended to add a new  
13 section numbered 11.06.095 to read as follows:

14 **11.06.095 Administrative Enforcement; Investigation, Conciliation, and Adjudication of**  
15 **Housing Complaints.**

16 (a) No complaint arising under this Section shall be filed more than one year after the  
17 last act of allegedly discriminatory housing practice has occurred or terminated.

18 (b) Persons making allegations under this Section may elect, in lieu of administrative  
19 proceeding under this Section, to have the claims adjudicated in a civil action with the District  
20 Court. If the Commission perceives a need for prompt judicial action, the Commission and the  
21 complainant may file jointly.

22 (c) Complaints and Answers:

23 (1) An aggrieved person may, not later than one year after an allegedly  
24 discriminatory housing practice has occurred or terminated, file a complaint with the Commission

1 alleging such discriminatory housing practice. The Manager of Lincoln Commission on Human  
2 Rights may also initiate such a complaint.

3 (2) Such complaints must be in writing and shall contain such information and  
4 be in such form as the Commission requires.

5 (3) Upon the filing of such a complaint:

6 (i) The Commission shall serve notice upon the aggrieved person  
7 acknowledging such filing and advising the aggrieved person of the time limits and choice of  
8 forums provided under this Section of the Title.

9 (ii) The Commission shall, not later than ten (10) days after such filing  
10 or the identification of an additional respondent under this Section, serve on the respondent a notice  
11 identifying the alleged discriminatory housing practice and advising such respondent of the  
12 procedural rights and obligations of respondents under this Section, together with a copy of the  
13 original complaint.

14 (iii) Each respondent may file, not later than ten (10) days after receipt  
15 of notice from the Commission, an answer to such complaint.

16 (iv) The Commission shall make an investigation of the allegedly  
17 discriminatory housing practice and complete such investigation within one hundred (100) days  
18 after the filing of the complaint, unless it is impracticable to do so.

19 (v) The Commission shall commence investigation with respect to the  
20 complaint before the end of the thirtieth (30) day after receipt of the complaint.

21 (4) If the Commission is unable to complete the investigation within one  
22 hundred (100) days after the filing of the complaint, the Commission shall notify the complainant  
23 and respondent in writing of the reasons for not doing so.

1           (5) Within one year of the date of receipt of a complaint alleging a  
2 discriminatory housing or real estate practice, the Commission shall take final administrative  
3 action with respect to that complaint unless it is impracticable to do so. If the Commission is  
4 unable to make final disposition of the case within the one year period, the Commission shall notify  
5 the complainant and respondent in writing of the reasons for not doing so.

6           (6) Complaints and answers shall be under oath or affirmation, and may be  
7 reasonably and fairly amended at any time.

8           (7) A person who is not named as a respondent in a complaint, but who is  
9 identified as a respondent in the course of the investigation, may be joined as an additional or  
10 substitute respondent upon written notice to such person. Such notice, in addition to meeting the  
11 requirements of this Section, shall explain the basis for the Commission's belief that the person to  
12 whom the notice is addressed is properly joined as a respondent.

13           (d) Investigative Report and Conciliation:

14           (1) Beginning with the filing of a complaint, the Commission shall, to the extent  
15 feasible, engage in conciliation with respect to such complaint.

16           (2) A conciliation agreement arising out of such conciliation shall be an  
17 agreement between the respondent and the complainant, and shall be subject to approval by the  
18 Commission.

19           (3) A conciliation agreement may provide for binding arbitration of the dispute  
20 arising from the complaint. Any such arbitration that results from a conciliation agreement may  
21 award appropriate relief, including monetary relief.

22           (4) Each conciliation agreement resulting from allegations made under this  
23 Section of the Title shall be made public unless the complainant and respondent otherwise agree,  
24 and the Commission determines that disclosure is not required to further the purposes of this Title.

1           (5) At the end of each investigation under this Section, the Commission shall  
2 prepare a final investigative report containing:

3           (i) The names and dates of contacts with witnesses;

4           (ii) A summary and the dates of correspondence and other contacts with  
5 the aggrieved person and the respondent;

6           (iii) A summary description of other pertinent records;

7           (iv) A summary of witness statements; and

8           (v) Answers to interrogatories.

9           (e) Whenever the Commission has reasonable cause to believe the respondent has  
10 breached a conciliation agreement, the Commission shall refer the matter to the City Attorney with  
11 a recommendation that a civil action be filed to enforce such agreement.

12           (f) The Commission shall, within one hundred (100) days of the filing of the complaint,  
13 unless impracticable, determine based on the facts whether reasonable cause exists to believe that  
14 a discriminatory housing practice has occurred or is about to occur, unless the Commission has  
15 approved a conciliation agreement with respect to the complaint. If the Commission is unable to  
16 make a determination within one hundred (100) days after the filing of the complaint, the  
17 Commission shall notify the complainant and respondent in writing of the reasons for not doing  
18 so.

19           (g) If the Commission determines that no reasonable cause exists to believe that a  
20 discriminatory housing practice has occurred or is about to occur, the Commission shall promptly  
21 dismiss the complaint.

22           (h) If the Commission determines that reasonable cause exists regarding the  
23 allegations of the complaint the Commission staff shall commence efforts to eliminate the  
24 discriminatory practice by conference or conciliation for a period of at least thirty (30) days after

1 the reasonable cause finding. After the expiration of thirty (30) days, the Manager of Lincoln  
2 Commission on Human Rights may order that the conference or conciliation efforts have failed.

3 (i) If the Commission determines that reasonable cause exists to believe that a  
4 discriminatory housing practice has occurred or is about to occur, and attempts at conciliation have  
5 failed, the Commission shall issue a charge and institute a public hearing before a hearing officer  
6 in accordance with the provisions found in Sections 11.02.070 and 11.02.075.

7 (j) If, upon taking into consideration all the evidence at hearing, the Commission  
8 determines that the respondent has engaged in a discriminatory or unfair housing practices, the  
9 Commission may order any and all relief, fines, and civil penalties provided for in Sections  
10 11.02.076 and 11.02.077.

11 Section 38. That Section 11.08.010 of the Lincoln Municipal Code be amended to read as  
12 follows:

13 **11.08.010 Purpose.**

14 It is the policy of the City of Lincoln to foster employment of all employable  
15 ~~individuals~~~~persons~~ in the city on the basis of merit regardless of their race, color, religion, sex,  
16 disability, national origin, ancestry, age, ~~or~~ marital status, military status, or veteran status, and to  
17 safeguard their right to obtain and hold employment without discrimination because of their race,  
18 color, religion, sex, disability, national origin, ancestry, age, ~~or~~ marital status, military status, or  
19 veteran status.

20 Denying equal opportunity for employment because of race, color, religion, sex, disability,  
21 national origin, ancestry, age, ~~or~~ marital status, military status, or veteran status is contrary to the  
22 principles of freedom and is a burden on the objectives of the public policy of the City of Lincoln.

23 Section 39. That Section 11.08.040 of the Lincoln Municipal Code be amended to read as  
24 follows:

1 **11.08.040 Unlawful Employment Practices for an Employer.**

2 It shall be an unlawful employment practice for an employer:

3 (a) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate  
4 against any individual with respect to such individual's compensation, terms, advancement  
5 potential, conditions, or privileges of employment because of such individual's race, color,  
6 religion, sex, disability, national origin, ancestry, age, ~~or~~ marital status, military status, or veteran  
7 status;

8 (b) To limit, segregate, or classify employees in any way which would deprive or tend  
9 to deprive any individual of employment opportunities or otherwise adversely affect their status  
10 as an employee because of such individual's race, color, religion, sex, disability, national origin,  
11 ancestry, age, ~~or~~ marital status, military status, or veteran status.

12 Section 40. That Section 11.08.050 of the Lincoln Municipal Code be amended to read as  
13 follows:

14 **11.08.050 Unlawful Employment Practice for Employment Agency.**

15 It shall be an unlawful employment practice for an employment agency to fail or refuse to  
16 refer for employment or otherwise to discriminate against any individual because of race, color,  
17 religion, sex, national origin, ancestry, disability, age, ~~or~~ marital status, military status, or veteran  
18 status, or to classify or refer for employment any individual on the basis of race, color, religion,  
19 sex, disability, national origin, ancestry, age, ~~or~~ marital status, military status, or veteran status.

20 Section 41. That Section 11.08.060 of the Lincoln Municipal Code be amended to read as  
21 follows:



1 **11.08.060 Unlawful Employment Practices for Labor Organization.**

2 It shall be an unlawful employment practice for a labor organization:

3 (a) To exclude or to expel from its membership or otherwise to discriminate against  
4 any individual because of race, color, religion, sex, disability, national origin, ancestry, age, ~~or~~  
5 marital status, military status, or veteran status; or

6 (b) To limit, segregate, or classify its membership, or to classify or fail or refuse to  
7 refer for employment any individual in any way which would deprive or tend to deprive any  
8 individual of employment opportunities, or would limit such employment opportunities or  
9 otherwise adversely affect their status as an employee or as an applicant for employment because  
10 of such individual's race, color, religion, sex, disability, national origin, ancestry, age, ~~or~~ marital  
11 status, military status, or veteran status; or

12 (c) Cause or attempt to cause an employer to discriminate against any individual in  
13 violation of this ~~e~~Chapter.

14 Section 42. That Section 11.08.070 of the Lincoln Municipal Code be amended to read as  
15 follows:

16 **11.08.070 Unlawful Employment Practice; Controlling Apprenticeship or Training**  
17 **Program.**

18 It shall be an unlawful employment practice for any employer, labor organization, or joint  
19 labor-management committee controlling apprenticeship or other training or retraining, including  
20 on-the-job training programs, to discriminate against any individual because of race, color,  
21 religion, sex, disability, national origin, ancestry, age, ~~or~~ marital status, military status, or veteran  
22 status in admission to or employment in any program established to provide apprenticeship or  
23 other training.

1 Section 43. That Section 11.08.075 of the Lincoln Municipal Code be amended to read as  
2 follows:

3 **11.08.075 Unlawful Employment Practice; Qualified Individual With Disability;**  
4 **Discrimination.**

5 (a) It shall be an unlawful employment practice for an employer to discriminate against  
6 a qualified individual with a disability because of the disability of such individual in regard to job  
7 application procedures, the hiring, advancement, or discharge of employees, employee  
8 compensation, job training, and other terms, conditions, and privileges of employment.

9 (b) When referring to a qualified individual with a disability, discrimination shall  
10 include:

11 (1) Limiting, segregating, or classifying a job applicant or employee in a way  
12 that adversely affects the opportunities or status of the applicant or employee because of the  
13 disability of the applicant or employee;

14 (2) Participating in a contractual or other arrangement or relationship that has  
15 the effect of subjecting a qualified individual with a disability to discrimination in the application  
16 or employment process, including a relationship with an employment agency, a labor union, an  
17 organization providing fringe benefits to an employee of the employer, or an organization  
18 providing training and apprenticeship programs;

19 (3) Utilizing standards, criteria, or methods of administration:  
20 (i) that have the effect of discrimination on the basis of disability; or  
21 (ii) that perpetuate the discrimination against others who are subject to  
22 common administrative control;

23 (4) Excluding or otherwise denying equal jobs or benefits to a qualified  
24 individual with a disability because of the known disability of an individual with whom the

1 qualified individual with a disability is known to have a relationship or association;

2 (5) Not making reasonable accommodations to the known physical or mental  
3 limitations of an otherwise qualified individual with a disability who is an applicant or employee  
4 unless such employer can demonstrate that the accommodation would impose an undue hardship  
5 on the operation of the business of the employer;

6 (6) Denying employment opportunities to a job applicant or employee who is  
7 otherwise a qualified individual with a disability if the denial is based upon the need of such  
8 employer to make reasonable accommodation to the physical or mental impairments of the  
9 employee or applicant;

10 (7) Using qualification standards, employment tests, or other selection criteria  
11 that screen out or tend to screen out an individual with a disability or a class of individuals with  
12 disabilities unless the standard, test, or other selection criteria, as used by the employer, is shown  
13 to be job-related for the position in question and is consistent with business necessity;

14 (8) Failing to select and administer tests concerning employment in the most  
15 effective manner to ensure that, when the test is administered to a job applicant or employee who  
16 has a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect  
17 the skills, aptitude, or whatever other factor of the applicant or employee that the test purports to  
18 measure rather than reflecting the impaired sensory, manual, or speaking skills of the employee or  
19 applicant except when such skills are the factors that the test purports to measure;

20 (9) Conducting a medical examination or making inquiries of a job applicant as  
21 to whether the applicant is an individual with a disability or as to the nature or severity of the  
22 disability, except that:

23 (i) An employer may make pre-employment inquiries into the ability  
24 of an applicant to perform job-related functions;

1 (ii) A test to determine the illegal use of drugs shall not be considered a  
2 medical examination; and

3 (iii) An employer may require a medical examination after an offer of  
4 employment has been made to a job applicant and prior to the  
5 commencement of the employment duties of the applicant and may  
6 condition an offer of employment on the results of the examination  
7 if:

8 A. All entering employees are subjected to such an examination  
9 regardless of disability;

10 B. Information obtained regarding the medical condition or  
11 history of the applicant is collected and maintained on  
12 separate forms and in separate medical files and is treated as  
13 a confidential medical record, except that:

14 1) supervisors and managers may be informed  
15 regarding necessary restrictions on the work or duties  
16 of the employee and necessary accommodations,

17 2) first-aid and safety personnel may be informed, when  
18 appropriate, if the disability might require  
19 emergency treatment,

20 3) government officials investigating compliance with  
21 this Title shall be provided relevant information on  
22 request, and

23 4) information shall be made available in accordance  
24 with the Nebraska Workers' Compensation Act; and

1 C. The results of the examination are used only in a manner not  
2 inconsistent with this ~~†~~Title; and

3 (10) Requiring a medical examination or making inquiries of an  
4 employee as to whether the employee is an individual with a disability or as to the nature or severity  
5 of the disability, unless the examination or inquiry is shown to be job-related and consistent with  
6 business necessity. ~~A test to determine the illegal use of drugs shall not be considered a medical~~  
7 ~~examination.~~ An employer may conduct voluntary medical examinations, including voluntary  
8 medical histories, which are part of an employee health program available to employees at the  
9 work site and may make inquiries into the ability of an employee to perform job-related functions  
10 if the information obtained regarding the medical condition or history of the employee is subject  
11 to the requirements in subdivisions (9)(iii)(B) and (C) of this section.

12 Section 44. That Chapter 11.08 of the Lincoln Municipal Code be amended to add a new  
13 section numbered 11.08.085 to read as follows:

14 **11.08.085 Lawful Employment Practices; Alcohol and Drug Use.**

15 It shall not be an unlawful employment practice for an employer to:

16 (a) Prohibit the illegal use of drugs and the use of alcohol at the workplace by all  
17 employees;

18 (b) Require that employees not be under the influence of alcohol or be engaging in the  
19 illegal use of drugs at the workplace;

20 (c) Require employees to comply with any federal regulations concerning the use of  
21 alcohol or the illegal use of drugs which are applicable to the position of the employee or to the  
22 industry involved; or

23 (d) Hold an employee who engages in the illegal use of drugs or who is an alcoholic to  
24 the same qualification standards for employment or job performance and behavior that such entity

1 [holds other employees even if any unsatisfactory performance or behavior is related to the drug](#)  
2 [use or alcoholism of such employee.](#)

3 Section 45. That Section 11.08.100 of the Lincoln Municipal Code be amended to read as  
4 follows:

5 **11.08.100 Standards for Compensation Permitted; When.**

6 (a) Notwithstanding any other provision of this ~~e~~Chapter, it shall not be an unlawful  
7 employment practice for an employer to apply different standards of compensation, for different  
8 terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system,  
9 or a system which measures earnings by quantity or quality of production or to employees who  
10 work in different locations, if the employer can show that such differences are not the result of  
11 discrimination because of race, color, religion, sex, disability, national origin, ancestry, age, ~~or~~  
12 marital status, [military status, or veteran status](#); nor shall it be unlawful employment practice for  
13 an employer to give and to act upon the results of any [professionally developed](#) ~~validated~~-ability  
14 tests if the employer can show that such test, its administration or action upon the result is not  
15 designed, intended, or used to discriminate because of race, color, religion, sex, disability, national  
16 origin, ancestry, age, ~~or~~ marital status, [military status, or veteran status](#) and are reasonably related  
17 to such employment.

18 (b) It shall not be an unlawful employment practice for an employer, employment  
19 agency, labor organization, or joint labor-management committee to deny privileges of  
20 employment [to an individual with a disability when the qualification standards, tests, or selection](#)  
21 [criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with](#)  
22 [a disability: \(1\) have been shown to be job-related and consistent with business necessity and such](#)  
23 [performance cannot be accomplished by a reasonable accommodation, or \(2\) include a requirement](#)  
24 [that an individual shall not pose a direct threat involving a significant risk to the health or safety](#)

1 of other individuals in the workplace, that cannot be eliminated by reasonable accommodation  
2 ~~when the nature and extent of a disability reasonably precludes the performance of the particular~~  
3 ~~employment.~~

4 (c) Women affected by pregnancy, childbirth, or related medical conditions shall be  
5 treated the same for all employment-related purposes, including receipt of employee benefits, as  
6 other persons not so affected but similar in their ability or inability to work, and nothing in this  
7 ~~s~~Section shall be interpreted to provide otherwise.

8 This ~~s~~Section shall not require an employer to provide employee benefits for abortion  
9 except when medical complications have arisen from an abortion. Nothing in this Section shall  
10 preclude an employer from providing employee benefits for abortion under fringe benefit  
11 programs or otherwise affect bargaining agreements in regard to abortion.

12 Section 46. That Section 11.08.110 of the Lincoln Municipal Code be amended to read as  
13 follows:

14 **11.08.110 Preferential Treatment Not to be Granted on Account of Existing Numbers or**  
15 **Percentage Imbalance.**

16 Nothing contained in this ~~e~~Chapter shall be interpreted to require any employer,  
17 employment agency, labor organization, or joint labor-management committee subject to this  
18 ~~e~~Chapter to grant preferential treatment to any individual or to any group because of the race,  
19 color, religion, sex, national origin, ancestry, age, ~~or~~ marital status, military status, or veteran status  
20 of such individual or group, on account of an imbalance which may exist with respect to the total  
21 number or percentage of ~~individuals~~~~persons~~ of any race, color, religion, sex, national origin,

1 ancestry, age, ~~or~~ marital status, military status, or veteran status in the city, or in the available work  
2 force in the city.

3 Section 47. That Section 11.08.120 of the Lincoln Municipal Code be amended to read as  
4 follows:

5 **11.08.120 Participation in Investigation, Proceeding or Hearing; Discrimination or**  
6 **Retaliation Unlawful.**

7 It shall be an unlawful employment practice for an employer to discriminate against any  
8 employees or applicants for employment, for an employment agency to discriminate against any  
9 individual, or for a labor organization to discriminate against any member thereof or applicant for  
10 membership because they have opposed any practice made an unlawful employment practice by  
11 this eChapter, or because they have made a charge, testified, assisted, or participated in any manner  
12 in an investigation, proceeding, or hearing under this eChapter.

13 Section 48. That Section 11.08.130 of the Lincoln Municipal Code be amended to read as  
14 follows:

15 **11.08.130 Unlawful Employment Practice; Notice of Employment Indicating; Preference**  
16 **~~or Discrimination Because of Race, Color, Religion, Sex, Disability, National~~**  
17 **~~Origin, Ancestry, Age, or Marital Status; Unlawful.~~**

18 It shall be an unlawful employment practice for an employer, labor organization, or  
19 employment agency to print or publish or cause to be printed or published any notice or  
20 advertisement relating to employment by such an employer or membership in, or any classification  
21 or referral for employment by such a labor organization, or relating to any classification or referral  
22 for employment by such an employment agency indicating any preference, limitation,  
23 specification, or discrimination based on race, color, religion, sex, disability, national origin,  
24 ancestry, age, ~~or~~ marital status, military status, or veteran status, except that such a notice or



1 advertisement may indicate a preference, limitation, specification, or discrimination based on  
2 religion, sex, or national origin, when religion, sex, or national origin is a bona fide occupational  
3 qualification for employment.

4 Section 49. That Section 11.08.140 of the Lincoln Municipal Code be amended to read as  
5 follows:

6 **11.08.140 Unlawful Employment Practice; Aiding, Abetting, Inciting, Compelling, or**  
7 **Coercing Violation~~Unlawful for Any Person to Aid or Abet in the Violation of~~**  
8 **~~this Chapter.~~**

9 It shall be unlawful for any person, whether or not an employer, employment agency, or  
10 labor organization, to aid, ~~or~~ abet, incite, compel, or coerce any activity prohibited by the  
11 provisions of this Chapter or attempt to so aid, abet, incite, compel, or coerce any such prohibited  
12 activity ~~in the doing of any act declared to be unlawful by this chapter.~~

13 Section 50. That Section 11.08.150 of the Lincoln Municipal Code be amended to read as  
14 follows:

15 **11.08.150 Posting Excerpts of Fair Employment Practices s Ordinances.**

16 Every employer, employment agency, and labor organization subject to the provisions of  
17 this eChapter shall ~~on or before February 1, 1974,~~ post and permanently maintain in a conspicuous  
18 place or places on the premises a notice to be prepared or approved by the state or federal equal  
19 employment opportunity commissions which shall set forth excerpts of applicable state and/or  
20 federal employment law ~~this chapter~~ and such other relevant information ~~which the commission~~  
21 ~~deems~~ deems necessary ~~to explain said chapter.~~

22 Section 51. That Section 11.08.160 of the Lincoln Municipal Code be amended to read as  
23 follows:

1 **11.08.160 Contracts with the City of Lincoln; Requirements.**

2 Every contract to which the City of Lincoln or any of its agencies is a party shall contain a  
3 provision requiring the contractor and subcontractors not to discriminate against any employee or  
4 applicant for employment to be employed in the performance of such contract with respect to hire,  
5 tenure, terms, conditions, or privileges of employment because of race, color, religion, sex,  
6 disability, national origin, ancestry, age, ~~or~~ marital status, military status, or veteran status.

7 Section 52. That Sections 11.01.010, 11.01.020, 11.02.020, 11.02.030, 11.02.040,  
8 11.02.050, 11.02.060, 11.02.070, 11.02.075, 11.02.080, 11.02.090, 11.04.010, 11.04.030,  
9 11.04.050, 11.06.020, 11.06.030, 11.06.040, 11.06.050, 11.06.060, 11.06.065, 11.06.070,  
10 11.08.010, 11.08.040, 11.08.050, 11.08.060, 11.08.070, 11.08.075, 11.08.100, 11.08.110,  
11 11.08.120, 11.08.130, 11.08.140, 11.08.150, and 11.08.160 of the Lincoln Municipal Code as  
12 hitherto existing be and the same are hereby repealed.

13 Section 53. This ordinance shall be published, within fifteen days after the passage hereof,  
14 in one issue of a daily or weekly newspaper of general circulation in the City, or posted on the  
15 official bulletin board of the City, located on the wall near the City Clerk's office at 555 S. 10<sup>th</sup>  
16 Street, in lieu and in place of the foregoing newspaper publication with notice of passage and such  
17 posting to be given by publication one time in the official newspaper by the City Clerk. This  
18 ordinance shall take effect and be in force from and after its passage and publication or after its  
19 posting and notice of such posting given by publication as herein and in the City Charter provided.

Introduced by:

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Approved as to Form & Legality:

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City Attorney

Approved this ___ day of _____, 2022:  <hr/> Mayor
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