

## **Proposed Revisions to Title 11 of Lincoln Municipal Code To include protections regarding military status, veteran status, disability, race, national origin, marital status, and sex.**

This initiative seeks to amend the following sections relating to Equal Opportunity of Title 11 of the Lincoln Municipal Code: 11.01.010, 11.01.020, 11.02.40, 11.02.60, 11.04.010, 11.04.30, 11.06.020, 11.06.030, 11.06.040, 11.06.050, 11.06.060, 11.06.065, 11.08.010, 11.08.040, 11.08.050, 11.08.060, 11.08.070, 11.08.100, 11.08.110, 11.08.130, 11.08.160

Proposed additions are underlined; proposed deletions are ~~stricken~~

### **11.01.010 Definitions.**

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

- (1) (no change)
- (2) (no change)
- (3) Being regarded as having such an impairment.

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

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

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

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

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

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

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

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

**Reasonable accommodation (in housing)** shall mean a change, exception, or adjustment to a rule, policy, practice, or service as may be necessary for an individual with a disability to

have an equal opportunity to use and enjoy a dwelling.

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

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

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

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

Sexual Harassment shall include making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature if (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, housing, or access to public accommodations, (b) submission to or rejection of such conduct by an individual is used as the basis for employment, housing, or public accommodation decisions affecting such individual, or (c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive environment in employment, housing, or public accommodations.

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

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

#### **11.01.020 Protection, Preservation, and Perpetuation of Constitutional Rights.**

It is the policy of the City of Lincoln to foster equal opportunity to all persons in the City regardless of their race, color, religion, sex, disability, national origin, familial status, ancestry age, ~~or~~ marital status, military status, or veteran status. Denying equal access to places of public accommodation or equal opportunity for housing or employment because of race, color, religion, sex, disability, national origin, familial status, ~~handicap~~, age, ancestry, ~~or~~ marital status, military status, or veteran status is contrary to the principles of freedom and is a burden upon the objectives of the aforestated public policy of the City of Lincoln.

#### **11.02.20 Equal Opportunity Officer; Duties.**

(a) (no change)

(b) Under the direction of the Commission, it shall be the duty of the Equal Opportunity Officer to maintain contacts with groups in the community which are concerned with understanding between ~~racess, cultures, and sexes~~ community members with varying identities and lived experiences, including protected characteristics; to report to the Commission regarding the activities of these groups; to serve as a source of accurate and reliable data on the problems in the above-mentioned fields; to implement the decisions of the Commission; to work in cooperation with the directors of all municipal departments and other governmental divisions in the improvement of services; to eliminate whatever source of interracial friction may exist; to work to remove inequalities which ~~pertain to~~ harm Black, Indigenous, and People of Color ~~minority groups' status~~, ~~disabled~~ individuals with disabilities, and ~~women~~ lesbian, gay,

bisexual, and transgender individuals on such problems as housing, recreation, education, employment, law enforcement, vocational guidance, and related matters; to serve as secretary to the Commission (without the right to vote on matters before the Commission on Human Rights) for purposes of receiving correspondence, discrimination complaints, and other legal and nonlegal communications, and to keep and record all records and communications of the Commission; and to do and perform such investigatory activities as the Commission shall within its jurisdiction direct.

(c) (no change)

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

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

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

(a) (no change)

(b) (no change)

(c) (no change)

(d) Seek to eliminate and prevent discrimination in places of public accommodation, housing, and employment as provided in this title on the basis of race, color, religion, sex, disability, national origin, familial status, ancestry, age, ~~or~~ marital status, military status, or veteran status:-

(e) (no change)

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

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

(h) (no change)

(i) (no change)

- (j) (no change)
- (k) (no change)
- (l) Issue publications and the results of studies and research which will tend to promote goodwill and minimize or eliminate discrimination because of race, color, religion, sex, disability, national origin, familial status, ancestry, age, ~~or~~ marital status, military status, or veteran status;
- (m) (no change)
- (n) (no change)
- (o) (no change)

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

This subsection applies to all complaints alleging illegal employment or public accommodation discrimination filed under this Title.

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

All persons within the City of Lincoln shall be entitled to a full and equal enjoyment of any place of public accommodation, as defined in Section 11.01.010, without discrimination or segregation on the grounds of race, color, sex, religion, national origin, ancestry, disability, ~~or~~ marital status, military status, or veteran status.

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

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

**11.06.020 Unlawful Acts Enumerated.**

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

- (a) Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, or to refuse to show, or to refuse to receive and transmit an offer for, a dwelling to any person because of race, color, religion, sex, disability, national origin, familial status, ~~handicap~~, ancestry, ~~or~~ marital status, military status, or veteran status;
- (b) Discriminate against any person in the terms, conditions, privileges of sale or rental of a dwelling, or in the provision of service or facilities in connection therewith, because of race, color, religion, sex, disability, national origin, familial status, ~~handicap~~, ancestry, ~~or~~ marital status, military status, or veteran status;
- (c) Make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, national origin, familial status, ~~handicap~~, ancestry, ~~or~~ marital status, military status, or veteran status or an intention to make any such preference, limitation, or discrimination;
- (d) Represent to any person because of race, color, religion, sex, disability, national origin, familial status, ~~handicap~~, ancestry, ~~or~~ marital status, military status, or veteran status that any dwelling is not available for inspection, sale, or rental when such dwelling is, in fact, so available;
- (e) Cause to be made any written or oral inquiry or record concerning the race, color,

religion, sex, disability, national origin, familial status, ~~handicap~~, ancestry, ~~or~~ marital status, military status, or veteran status of a person seeking to purchase, rent, or lease any dwelling~~housing~~;

- (f) Include in any transfer, sale, rental, or lease of any dwelling~~housing~~ any unlawful restrictive covenants, or to honor or exercise or attempt to honor or exercise any unlawful restrictive covenants pertaining to housing related to race, color, religion, sex, disability, national origin, familial status, ancestry, marital status, military status, or veteran status;
- (g) (no change)
- (h) Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, disability, national origin, familial status, ~~handicap~~, ancestry, ~~or~~ marital status, military status, or veteran status;
- (i) Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability~~handicap~~ of:
  - (1) (no change)
  - (2) (no change)
  - (3) (no change)
- (j) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a disability~~handicap~~ of:
  - (1) Such person;
  - (2) Any person associated with such person; or
  - (3) A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available.

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

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

- (a) A refusal to permit, at the expense of the individual with a disability~~handicapped person~~, reasonable modifications of existing premises occupied or to be occupied by the individual~~person~~ if the modifications may be necessary to afford the individual~~person~~ full enjoyment of the premises, except that in the case of a rental, the landlord may, when it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
- (b) A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford the individual with a disability~~handicapped person~~ equal opportunity to use and enjoy a dwelling; and
- (c) (no change)
  - (1) The public use and common use portions of the dwellings are readily accessible to and usable by individuals with disabilities~~handicapped persons~~;
  - (2) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by individuals with disabilities~~handicapped persons~~ in wheelchairs; and
  - (3) All premises within the dwellings contain the following features of adaptive design:
    - (i) An accessible route into and through the dwelling;
    - (ii) Light switches, electrical outlets, thermostats, and other

environmental controls in accessible locations;

- (iii) Reinforcements in bathroom walls to allow later installation of grab bars; and
- (iv) Kitchens and bathrooms such that an individual with a disability ~~handicapped person~~ in a wheelchair can maneuver about the space.
- (v) At least one dwelling entrance on an accessible route, unless it is impracticable to do so because of the terrain or unusual characteristics of the site.

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

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

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

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

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

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

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

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

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

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

(b) (no change)

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

**11.08.010 Purpose.**

It is the policy of the City of Lincoln to foster employment of all employable persons in the city on the basis of merit regardless of their race, color, religion, sex, disability, national origin, ancestry, age, ~~or~~ marital status, [military status, or veteran status](#), and to safeguard their right to obtain and hold employment without discrimination because of their race, color, religion, sex, disability, national origin, ancestry, age, ~~or~~ marital status, [military status, or veteran status](#). Denying equal opportunity for employment because of race, color, religion, sex, disability, national origin, ancestry, age, ~~or~~ marital status, [military status, or veteran status](#) is contrary to the principles of freedom and is a burden on the objectives of the public policy of the City of Lincoln.

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

It shall be an unlawful employment practice for an employer:

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

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

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

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

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

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

(a) To exclude or to expel from its membership or otherwise to discriminate against any individual because of race, color, religion, sex, disability, national origin, ancestry, age, ~~or~~

marital status, [military status, or veteran status](#); or

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

(p) (no change)

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

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

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

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

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

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

This section shall not require an employer to provide employee benefits for abortion except when medical complications have arisen from an abortion. [Nothing in this Section shall preclude an employer from providing employee benefits for abortion under fringe benefit](#)



[programs or otherwise affect bargaining agreements in regard to abortion.](#)

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

Nothing contained in this chapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, national origin, ancestry, age, ~~or~~ marital status, [military status, or veteran status](#) of such individual or group, on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, national origin, ancestry, age, ~~or~~ marital status, [military status, or veteran status](#) in the city, or in the available work force in the city.

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

It shall be an unlawful employment practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in, or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, disability, national origin, ancestry, age, ~~or~~ marital status, [military status, or veteran status](#), except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin, when religion, sex, or national origin is a bona fide occupational qualification for employment.

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

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