

ALLEN COUNTY CODE TITLE 7 PURCHASING

ARTICLE 1 EEO CONSTRUCTION AND CONTRACT SPECIFICATIONS

- Section 1. Allen County Code Section 7-1-1 et seq. is hereby repealed.
Section 2. A new section which shall read as follows is hereby adopted

DISCRIMINATION BY FIRMS, ENTITIES OR PERSONS UNDER MUNICIPAL CONTRACT WITH THE BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN

7-1-1 Chapter 1: Definitions

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

- (a) Affirmative Action Officer – The person(s) designated by the Board of Commissioners of the County of Allen to review compliance with this Ordinance.
- (b) Discriminates, discriminating and discriminatory mean and include:
 - 1. To promote segregation or separation in any manner, to treat any manner, to treat any person differently, or to exclude from or fail or refuse to extend to any person equal opportunities with respect to hiring, termination, compensation, or other terms, conditions or privileges of employment, because of the race, religion, sex, color, national origin or handicap of any such person;
 - 2. To fail to make reasonable accommodations to the religious observance or practice of any employee or prospective employee unless the employee can demonstrate that the accommodation would impose an undue hardship on the conduct of the employer's business;
 - 3. To fail to make reasonable accommodations to the religious observance or practice of any employee or perspective employee unless the employee can demonstrate that the accommodation would impose an undue hardship on the conduct of the employer's business;
 - 4. To make, print or publish, or cause to be made, printed or published any notice, statement, or advertisement with respect to employment that

indicates a preference, limitation, specification or discrimination based on race, sex, religion, color, nation origin or handicap;

The following practices are not included in the meaning of discrimination:

1. For any not-for profit association, incorporated or otherwise, Organized exclusively for fraternal or religious purposes, to devote its resources to its own religion or denomination, or to give employment preference to its own members;
 2. For any not-for-profit association, incorporated or otherwise, established for the purpose of offering or providing education, training or other social services and benefits to handicapped persons, to devote its resources to such handicapped persons, or to give a preference to handicapped persons with respect to such education, training or social services and benefits. own members;
- (c) Handicap – A condition that can mean or be described as:
1. Any physical or mental impairment which substantially limits one or more of a person’s major life activities; or
 2. A record of such an impairment;
 3. A person who is regarded as having such an impairment; provided that,
 4. This term does not include drug or alcohol abuse or addiction.
- (d) Obstruct: The action of any person knowingly obstructing the fair and lawful enforcement of this chapter by coercing or intimidating any complainant or prospective complainant, or any witness to any act of discrimination as defined herein; after such person has been served notice of complaint filed.
- (e) Retaliation: The actions of any person in discriminating against any other person with regard to or denying any other person access to or opportunities in employment, because any such other person has opposed any practice made unlawful by this chapter, or because such other person has made a charge, testified, assisted or participated in any manner in any investigation, proceeding, or hearing under this chapter.

7-1-2 Chapter 2: Mandatory Covenants

Every contract for or on behalf of the Board of Commissioners of the County of Allen for the construction, alteration or repair of any public building or public work, or the performance of any work or service, shall contain provisions by which the contractor agrees, as follows:

- (a) That in the performance of work under such contract or any subcontract thereunder the contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, will not discriminate against any person who is qualified and available to perform the work to which the employment relates.
- (b) That such contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor will retaliate against any person.

7-1-3 Chapter 3: Enforcement

Enforcement of this chapter shall be through order of the Board of Commissioners of the County of Allen (The "Board").

- (a) Whenever any member of the Board, or whenever the Affirmative Action Officer who is assigned to help watch over public contracts has reason to believe that any of the provisions hereof have been violated, the matter may be referred to the Affirmative Action Officer for investigation and initiation of discrimination charges against the contractor or subcontractor. If a complaint has been filed with the Fort Wayne Metropolitan Human Relations Commission, the State Civil Rights Commissioners of the Federal Equal Employment Opportunity Commission, the Affirmative Action Office may defer to that investigation.
- (b) A final order of the Affirmative Action Officer shall be forwarded to the Board, which may invoke one of the remedies set forth in Section 7-1-4. The Board shall conduct a hearing to determine whether there has been a breach of this chapter.

7-1-4 Chapter 4: Remedies

Upon finding that a contractor or subcontractor or any person acting on behalf of such contractor or subcontractor has violated a provision or provisions of this section, whether discriminating, obstructing, retaliating, or otherwise, the Board may:

- (a) Deduct from the amount payable to the contractor by the Board under such contract a penalty of not less than \$10.00 per day per violation or more than \$1,000.00 per day per violation. Each day on which a continuous violation exists shall be deemed a separate offense; or
- (b) The Board may cancel or terminate the contract and all money due or to become due thereunder may be forfeited, for a second or any subsequent violation of this chapter.

7-1-5 Chapter 5: Copy of Provisions to be included in Contracts to Constitute Compliance

A verbatim copy of Sections 7-1-1 through 7-1-4 may be attached as an exhibit to and incorporated in and made a part of any contract made by or on behalf of the Board, which shall constitute compliance with Section 7-1-2.

Section 3. Section 1 of the Ordinance shall become effective upon passage, Section 2 shall become effective the date of publication of the adoption of the same.

Dated this 15th day of November, 2000.

THE BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN

Edwin J. Rousseau, President

Linda K. Bloom, Vice President

Marla J. Irving, Secretary

Therese M. Brown, Auditor