



**CITY OF DUBUQUE, IOWA
CITY COUNCIL MEETING**
Historic Federal Building: 350 W. 6th
Street - Second-Floor Council
Chambers.
July 14, 2025 at 6:00 PM

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ROLL CALL ORDER FOR MEETING

Jones, Wethal, Cavanagh, Farber, Sprank, Resnick, Roussell

SPECIAL SESSION

ACTION ITEMS

1. Equity and Human Rights Ordinance Amendment

The City Council will consider rescinding Ordinance No. 29-25 Amending City Of Dubuque Code Of Ordinances Title 8 Equity And Human Rights By Repealing Title 8 Equity And Human Rights And Adopting In Lieu Thereof A New Title 8 Human Rights, and in it's place, adopting a Human Rights Ordinance that will continue to include gender identity, and the commission's composition will continue to represent the City's various racial, religious, cultural, and social communities.

ORDINANCE Amending City Of Dubuque Code Of Ordinances Title 8 Equity And Human Rights By Repealing Title 8 Equity And Human Rights And Adopting In Lieu Thereof A New Title 8 Human Rights

Suggested Disposition: 1. Receive and File; Rescind Ordinance No. 29-25

2. Receive and File; Motion B; Motion A for the Replacement Ordinance

ADJOURNMENT

The agenda with supporting documents may be accessed at www.cityofdubuque.org or at the City Clerk's Office at ctyclerk@cityofdubuque.org or by mail to 50 W. 13th Street, during regular business hours.

This notice is given pursuant to Chapter 21, Code of Iowa, and applicable local regulations of the City of Dubuque, Iowa and/or governmental body holding the meeting.

Written comments regarding the above items may be submitted to the City Clerk's Office at ctyclerk@cityofdubuque.org or by mail to 50 W. 13th St., Dubuque, IA 52001, before said time of meeting.

Individuals requiring special assistance should contact the City Clerk's Office as soon as feasible at (563) 589-4100, ctyclerk@cityofdubuque.org. Deaf or hard-of-hearing individuals can use Relay Iowa by dialing 711 or (800) 735-2942.

**City of Dubuque
City Council**

ACTION ITEMS # 1.

ITEM TITLE:	Equity and Human Rights Ordinance Amendment
SUMMARY:	The City Council will consider rescinding Ordinance No. 29-25 Amending City Of Dubuque Code Of Ordinances Title 8 Equity And Human Rights By Repealing Title 8 Equity And Human Rights And Adopting In Lieu Thereof A New Title 8 Human Rights, and in it's place, adopting a Human Rights Ordinance that will continue to include gender identity, and the commission's composition will continue to represent the City's various racial, religious, cultural, and social communities. ORDINANCE Amending City Of Dubuque Code Of Ordinances Title 8 Equity And Human Rights By Repealing Title 8 Equity And Human Rights And Adopting In Lieu Thereof A New Title 8 Human Rights
SUGGESTED DISPOSITION:	1. Receive and File; Rescind Ordinance No. 29-25 2. Receive and File; Motion B; Motion A for the Replacement Ordinance
ATTACHMENTS:	1. MVM Memo 2. Referenced Attachment 3. New Title 8_CLEAN 4. New Title 8_Redline 5. Redline that should have been included with 7/7/2025 City Council Meeting Materials Title 8_Redline_6-29-25 6. Materials from July 7, 2025, City Council Meeting

TO: The Honorable Mayor and City Council Members

FROM: Michael C. Van Milligen, City Manager

SUBJECT: Equity and Human Rights Ordinance Amendment

DATE: July 10, 2025

Mayor Brad Cavanagh has called a Special City Council Meeting for Monday, July 14, at 6:00 PM in the Historic Federal Building City Council Chambers to further consider this ordinance.

As City Manager it is my responsibility to review and research every recommendation that I send to City Council and then to clearly explain the recommendation to City Council so the City Council can have a thorough debate of any issues and then make a final decision. In the case of the changes to the Equity and Human Rights ordinance at the July 7 City Council meeting, I failed in that obligation.

When the City Council passed the ordinance on July 7, they voted to remove, "Gender Identity: A gender related identity of a person, regardless of the person's assigned birth." There are other places in the ordinance where the reference to Gender Identity was removed.

The City Council also changed the language for commission membership in Section 8.2.5 from the previous language:

"The commission comprises nine (9) residents of the city, appointed by City Council from various racial, religious, cultural, and social groups within the city."

It was changed to this new language: "The commission comprises nine (9) residents of the city, appointed by City Council from various sectors of the community, including those protected from discrimination under this ordinance."

I should have pointed out these changes to City Council in the cover memo and I should have provided a redline version of the ordinance so that the City Council could have identified the changes.

While I believe Gender Identity was deleted from the ordinance based on concerns about eligibility for federal funding, there does not appear to be any federal or state requirements, that require the language to be removed. The following is what caused the concerns about federal funding:

- Executive Order 14168 (signed 1/20/2025) (attached)
 - Changes “the policy of the United States to recognize two sexes, male and female.” (§ 2)
 - Contains this prohibition: “Federal funds shall not be used to promote gender ideology. Each agency shall assess grant conditions and grantee preferences and ensure grant funds do not promote gender ideology.” (§ 3(g))
- Iowa SF 418 (gender identity) (not attached)
 - Signed by Governor Reynolds on 2/28/2025 (with an effective date of 7/1/2025).
 - Much of the language is similar to EO 14168.
- Letter from Secretary of Transportation Sean Duffy (dated 4/24/2025) (attached)
 - “Recipients are also precluded from allocating money received under DOT awards – such as through contracts or the provision of other benefits – based on suspect classifications. Any discriminatory actions in your policies, programs, and activities based on prohibited categories constitute a clear violation of Federal law and the terms of your grant agreements.”
- Iowa HF 856 (DEI) (signed 5/27/2025; effective immediately)
 - Includes prohibitions on efforts to promote or promulgate trainings, programming, or activities designed or implemented to encourage preferential treatment based on gender identity (among others).
 - Included prohibitions on promoting, as the official position of the City, a policy, program, practice, activity, or procedure referencing gender theory (among others).

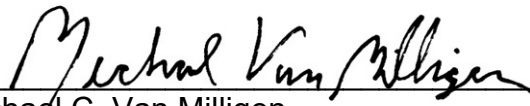
The ordinance change has not yet taken effect because that does not happen until the ordinance is published in the newspaper and that has not occurred.

Assistant City Attorney Jason Lehman advises, “Even without the explicit inclusion of gender identity as a protected class, gender identity would still be protected under our ordinance pursuant to the Supreme Court’s decision in *Bostock v. Clayton County* (majority opinion by Gorsuch held sex necessarily includes gender identity and sexual orientation).”

I respectfully recommend Mayor and City Council adoption of an amended Equity and Human Rights Ordinance to change the title of the ordinance to Human Rights Ordinance and to change the name of the commission to Human Rights Commission. I further recommend that Gender Identity continue to be included in the Human Rights Ordinance and the composition of the commission continues to reflect various racial, religion, culture, and social groups within the City.

Other recommended miscellaneous changes:

- 8-2-13-G (powers)
 - Changed “advancing equity, promotion inclusion” to “the promotion and advancement of respect and belonging in the community”
- 8-2-13-H (powers)
 - Changed “equity” to “respect and belonging”
 - Changed “cultural and intergroup” to “community”
- 8-5-2-F (prohibitions)
 - Three minor grammar and punctuation changes


Michael C. Van Milligen

MCVM:sv

Attachment

cc: Crenna Brumwell, City Attorney
Cori Burbach, Assistant City Manager
Jason Lehman, Assistant City Attorney
Dr. Gisella Aitken-Shadle, Chief of Human Rights

Presidential Documents

Executive Order 14168 of January 20, 2025

Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7301 of title 5, United States Code, it is hereby ordered:

Section 1. Purpose. Across the country, ideologues who deny the biological reality of sex have increasingly used legal and other socially coercive means to permit men to self-identify as women and gain access to intimate single-sex spaces and activities designed for women, from women's domestic abuse shelters to women's workplace showers. This is wrong. Efforts to eradicate the biological reality of sex fundamentally attack women by depriving them of their dignity, safety, and well-being. The erasure of sex in language and policy has a corrosive impact not just on women but on the validity of the entire American system. Basing Federal policy on truth is critical to scientific inquiry, public safety, morale, and trust in government itself.

This unhealthy road is paved by an ongoing and purposeful attack against the ordinary and longstanding use and understanding of biological and scientific terms, replacing the immutable biological reality of sex with an internal, fluid, and subjective sense of self unmoored from biological facts. Invalidating the true and biological category of "woman" improperly transforms laws and policies designed to protect sex-based opportunities into laws and policies that undermine them, replacing longstanding, cherished legal rights and values with an identity-based, inchoate social concept.

Accordingly, my Administration will defend women's rights and protect freedom of conscience by using clear and accurate language and policies that recognize women are biologically female, and men are biologically male.

Sec. 2. Policy and Definitions. It is the policy of the United States to recognize two sexes, male and female. These sexes are not changeable and are grounded in fundamental and incontrovertible reality. Under my direction, the Executive Branch will enforce all sex-protective laws to promote this reality, and the following definitions shall govern all Executive interpretation of and application of Federal law and administration policy:

(a) "Sex" shall refer to an individual's immutable biological classification as either male or female. "Sex" is not a synonym for and does not include the concept of "gender identity."

(b) "Women" or "woman" and "girls" or "girl" shall mean adult and juvenile human females, respectively.

(c) "Men" or "man" and "boys" or "boy" shall mean adult and juvenile human males, respectively.

(d) "Female" means a person belonging, at conception, to the sex that produces the large reproductive cell.

(e) "Male" means a person belonging, at conception, to the sex that produces the small reproductive cell.

(f) "Gender ideology" replaces the biological category of sex with an ever-shifting concept of self-assessed gender identity, permitting the false claim that males can identify as and thus become women and vice versa, and requiring all institutions of society to regard this false claim as true.

Gender ideology includes the idea that there is a vast spectrum of genders that are disconnected from one's sex. Gender ideology is internally inconsistent, in that it diminishes sex as an identifiable or useful category but nevertheless maintains that it is possible for a person to be born in the wrong sexed body.

(g) "Gender identity" reflects a fully internal and subjective sense of self, disconnected from biological reality and sex and existing on an infinite continuum, that does not provide a meaningful basis for identification and cannot be recognized as a replacement for sex.

Sec. 3. Recognizing Women Are Biologically Distinct From Men. (a) Within 30 days of the date of this order, the Secretary of Health and Human Services shall provide to the U.S. Government, external partners, and the public clear guidance expanding on the sex-based definitions set forth in this order.

(b) Each agency and all Federal employees shall enforce laws governing sex-based rights, protections, opportunities, and accommodations to protect men and women as biologically distinct sexes. Each agency should therefore give the terms "sex", "male", "female", "men", "women", "boys" and "girls" the meanings set forth in section 2 of this order when interpreting or applying statutes, regulations, or guidance and in all other official agency business, documents, and communications.

(c) When administering or enforcing sex-based distinctions, every agency and all Federal employees acting in an official capacity on behalf of their agency shall use the term "sex" and not "gender" in all applicable Federal policies and documents.

(d) The Secretaries of State and Homeland Security, and the Director of the Office of Personnel Management, shall implement changes to require that government-issued identification documents, including passports, visas, and Global Entry cards, accurately reflect the holder's sex, as defined under section 2 of this order; and the Director of the Office of Personnel Management shall ensure that applicable personnel records accurately report Federal employees' sex, as defined by section 2 of this order.

(e) Agencies shall remove all statements, policies, regulations, forms, communications, or other internal and external messages that promote or otherwise inculcate gender ideology, and shall cease issuing such statements, policies, regulations, forms, communications or other messages. Agency forms that require an individual's sex shall list male or female, and shall not request gender identity. Agencies shall take all necessary steps, as permitted by law, to end the Federal funding of gender ideology.

(f) The prior Administration argued that the Supreme Court's decision in *Bostock v. Clayton County* (2020), which addressed Title VII of the Civil Rights Act of 1964, requires gender identity-based access to single-sex spaces under, for example, Title IX of the Educational Amendments Act. This position is legally untenable and has harmed women. The Attorney General shall therefore immediately issue guidance to agencies to correct the misapplication of the Supreme Court's decision in *Bostock v. Clayton County* (2020) to sex-based distinctions in agency activities. In addition, the Attorney General shall issue guidance and assist agencies in protecting sex-based distinctions, which are explicitly permitted under Constitutional and statutory precedent.

(g) Federal funds shall not be used to promote gender ideology. Each agency shall assess grant conditions and grantee preferences and ensure grant funds do not promote gender ideology.

Sec. 4. Privacy in Intimate Spaces. (a) The Attorney General and Secretary of Homeland Security shall ensure that males are not detained in women's prisons or housed in women's detention centers, including through amendment, as necessary, of Part 115.41 of title 28, Code of Federal Regulations and interpretation guidance regarding the Americans with Disabilities Act.

(b) The Secretary of Housing and Urban Development shall prepare and submit for notice and comment rulemaking a policy to rescind the final rule entitled “Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs” of September 21, 2016, 81 FR 64763, and shall submit for public comment a policy protecting women seeking single-sex rape shelters.

(c) The Attorney General shall ensure that the Bureau of Prisons revises its policies concerning medical care to be consistent with this order, and shall ensure that no Federal funds are expended for any medical procedure, treatment, or drug for the purpose of conforming an inmate’s appearance to that of the opposite sex.

(d) Agencies shall effectuate this policy by taking appropriate action to ensure that intimate spaces designated for women, girls, or females (or for men, boys, or males) are designated by sex and not identity.

Sec. 5. *Protecting Rights.* The Attorney General shall issue guidance to ensure the freedom to express the binary nature of sex and the right to single-sex spaces in workplaces and federally funded entities covered by the Civil Rights Act of 1964. In accordance with that guidance, the Attorney General, the Secretary of Labor, the General Counsel and Chair of the Equal Employment Opportunity Commission, and each other agency head with enforcement responsibilities under the Civil Rights Act shall prioritize investigations and litigation to enforce the rights and freedoms identified.

Sec. 6. *Bill Text.* Within 30 days of the date of this order, the Assistant to the President for Legislative Affairs shall present to the President proposed bill text to codify the definitions in this order.

Sec. 7. *Agency Implementation and Reporting.* (a) Within 120 days of the date of this order, each agency head shall submit an update on implementation of this order to the President, through the Director of the Office of Management and Budget. That update shall address:

(i) changes to agency documents, including regulations, guidance, forms, and communications, made to comply with this order; and

(ii) agency-imposed requirements on federally funded entities, including contractors, to achieve the policy of this order.

(b) The requirements of this order supersede conflicting provisions in any previous Executive Orders or Presidential Memoranda, including but not limited to Executive Orders 13988 of January 20, 2021, 14004 of January 25, 2021, 14020 and 14021 of March 8, 2021, and 14075 of June 15, 2022. These Executive Orders are hereby rescinded, and the White House Gender Policy Council established by Executive Order 14020 is dissolved.

(c) Each agency head shall promptly rescind all guidance documents inconsistent with the requirements of this order or the Attorney General’s guidance issued pursuant to this order, or rescind such parts of such documents that are inconsistent in such manner. Such documents include, but are not limited to:

(i) “The White House Toolkit on Transgender Equality”;

(ii) the Department of Education’s guidance documents including:

(A) “2024 Title IX Regulations: Pointers for Implementation” (July 2024);

(B) “U.S. Department of Education Toolkit: Creating Inclusive and Non-discriminatory School Environments for LGBTQI+ Students”;

(C) “U.S. Department of Education Supporting LGBTQI+ Youth and Families in School” (June 21, 2023);

(D) “Departamento de Educación de EE.UU. Apoyar a los jóvenes y familias LGBTQI+ en la escuela” (June 21, 2023);

(E) “Supporting Intersex Students: A Resource for Students, Families, and Educators” (October 2021);

(F) “Supporting Transgender Youth in School” (June 2021);

(G) “Letter to Educators on Title IX’s 49th Anniversary” (June 23, 2021);

(H) “Confronting Anti-LGBTQI+ Harassment in Schools: A Resource for Students and Families” (June 2021);

(I) “Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*” (June 22, 2021);

(J) “Education in a Pandemic: The Disparate Impacts of COVID–19 on America’s Students” (June 9, 2021); and

(K) “Back-to-School Message for Transgender Students from the U.S. Depts of Justice, Education, and HHS” (Aug. 17, 2021);

(iii) the Attorney General’s Memorandum of March 26, 2021 entitled “Application of *Bostock v. Clayton County* to Title IX of the Education Amendments of 1972”; and

(iv) the Equal Employment Opportunity Commission’s “Enforcement Guidance on Harassment in the Workplace” (April 29, 2024).

Sec. 8. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

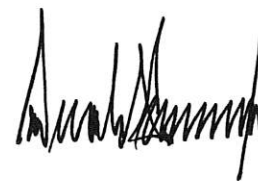
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.



THE WHITE HOUSE,
January 20, 2025.



THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

April 24, 2025

To All Recipients of U.S. Department of Transportation Funding:

The U.S. Department of Transportation (Department or DOT) distributes substantial Federal financial assistance for thousands of projects, programs, and activities operated or initiated by diverse entities, including but not limited to State and local governments. The Department administers this Federal financial assistance to support the development and maintenance of the Nation's transportation infrastructure, pursuant to statutory authority and in accordance with binding contractual agreements in the form of Federal financial assistance agreements, usually grants, cooperative agreements, and loans. Accordingly, I write to clarify and reaffirm pertinent legal requirements, to outline the Department's expectations, and to provide a reminder of your responsibilities and the consequences of noncompliance with Federal law and the terms of your financial assistance agreements. It is the policy of the Department to award and to continue to provide Federal financial assistance only to those recipients who comply with their legal obligations.

As recipients of such DOT funds, you have entered into legally enforceable agreements with the United States Government and are obligated to comply fully with all applicable Federal laws and regulations. These laws and regulations include the United States Constitution, Federal statutes, applicable rules, and public policy requirements, including, among others, those protecting free speech and religious liberty and those prohibiting discrimination and enforcing controls on illegal immigration. As Secretary of Transportation, I am responsible for ensuring recipients of DOT financial assistance are aware of and comply with all applicable legal obligations.

The Equal Protection principles of the Constitution prohibit State and Federal governmental entities from discriminating on the basis of protected characteristics, including race. Indeed, as the Supreme Court declared in *Students for Fair Admission, Inc. v. Harvard (SFFA)*, 600 U.S. 181, 206 (2023), "[t]he clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States." The Court further noted that "[o]ne of the principal reasons race is treated as a forbidden classification is that it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities." *Id.* at 220. In ruling that race-based admissions programs at universities violated the Equal Protection Clause, the Court made clear that discrimination based on race is, has been, and will continue to be unlawful, except in rare circumstances. *Id.* at 220-21. Similarly, sex-based classifications violate the Equal Protection Clause absent "exceedingly persuasive" justification. *See United States v. Virginia*, 518 U.S. 515, 533 (1996).

These constitutional principles are reinforced by the Civil Rights Act of 1964, which prohibits discrimination based on protected characteristics in the Federal funding and employment contexts in Title VI (42 U.S.C. § 2000d *et seq.*) and Title VII (42 U.S.C. § 2000e-2), as well as the applicable non-discrimination clauses in the Federal Aid Highway Act of 1973 (23 U.S.C. §§ 140 and 324 *et seq.*), the Airport and Airway Improvement Act of 1982, (49 U.S.C. § 47123), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. § 1681 *et seq.*).

Based on binding Supreme Court precedent and these Federal laws, DOT is prohibited from discriminating based on race, color, national origin, sex, or religion in any of its programs or activities. Moreover, because DOT may not establish, induce, or endorse prohibited discrimination indirectly,¹ it must ensure that discrimination based on race, color, national origin, sex, or religion does not exist in the programs or activities it funds or financially assists.

These same principles apply to recipients of Federal financial assistance from DOT, as both a matter of Federal law and by virtue of contractual provisions governing receipt of DOT funding. Accordingly, DOT recipients are prohibited from engaging in discriminatory actions in their own policies, programs, and activities, including in administering contracts, and their employment practices.

Whether or not described in neutral terms, any policy, program, or activity that is premised on a prohibited classification, including discriminatory policies or practices designed to achieve so-called “diversity, equity, and inclusion,” or “DEI,” goals, presumptively violates Federal law. Recipients of DOT financial assistance must ensure that the personnel practices (including hiring, promotions, and terminations) within their organizations are merit-based and do not discriminate based on prohibited categories. Recipients are also precluded from allocating money received under DOT awards—such as through contracts or the provision of other benefits—based on suspect classifications. Any discriminatory actions in your policies, programs, and activities based on prohibited categories constitute a clear violation of Federal law and the terms of your grant agreements.

In addition, your legal obligations require cooperation generally with Federal authorities in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in the enforcement of Federal immigration law. DOT has noted reported instances where some recipients of Federal financial assistance have declined to cooperate with ICE investigations, have issued driver’s licenses to individuals present in the United States in violation of Federal immigration law, or have otherwise acted in a manner that impedes Federal law enforcement. Such actions undermine Federal sovereignty in the enforcement of immigration law, compromise the safety and security of the transportation systems supported by DOT

¹ See *SFFA*, 600 U.S. at 230; *Norwood v. Harrison*, 413 U.S. 455, 465 (1973).

financial assistance, and prioritize illegal aliens over the safety and welfare of the American people whose Federal taxes fund DOT's financial assistance programs.

Under the Constitution, Federal law is "the supreme Law of the Land." U.S. Const. Art. VI. That means that where Federal and State legal requirements conflict, States and State entities must follow Federal law. Declining to cooperate with the enforcement of Federal immigration law or otherwise taking action intended to shield illegal aliens from ICE detection contravenes Federal law and may give rise to civil and criminal liability. *See* 8 U.S.C. § 1324 and 8 U.S.C. § 1373. Accordingly, DOT expects its recipients to comply with Federal law enforcement directives and to cooperate with Federal officials in the enforcement of Federal immigration law. The Department also expects its recipients to ensure that the Federal financial assistance they receive from DOT is provided only to subrecipients, businesses, or service providers that are U.S. Citizens or U.S. Nationals and Lawful Permanent Residents (LPRs) or legal entities allowed to do business in the U.S. and which do not employ illegal aliens.

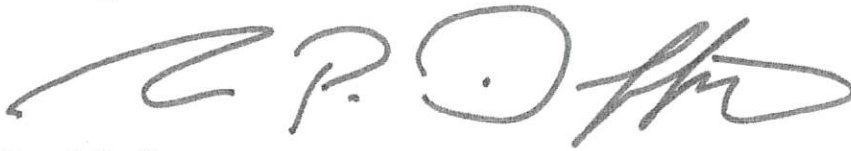
This letter provides notice of the Department's existing interpretation of Federal law. The Department will vigorously enforce the law on equal terms as to all its recipients and intends to take appropriate measures to assess their compliance based on the interpretation of Federal law set forth in this letter. Adherence to your legal obligations is a prerequisite for receipt of DOT financial assistance. Noncompliance with applicable Federal laws, or failure to cooperate generally with Federal authorities in the enforcement of Federal law, will jeopardize your continued receipt of Federal financial assistance from DOT and could lead to a loss of Federal funding from DOT.

The Department retains authority, pursuant to its oversight responsibilities and the terms of your agreements, to initiate enforcement actions, such as comprehensive audits and possible recovery of funds expended in a manner contrary to the terms of the funding agreement. DOT may also terminate funding in response to substantiated breaches of the terms of the agreement, or if DOT determines that continued funding is no longer in the public interest. These steps, within DOT's discretion, are intended to ensure accountability and protect the integrity of Federal programs.

To assist grant recipients in meeting their legal obligations, DOT offers technical guidance and support through its program offices. Should you require clarification regarding your obligations, you are encouraged to contact your designated DOT representative promptly. Proactive engagement is strongly advised to prevent inadvertent noncompliance.

DOT remains committed to advancing a transportation system that serves the public interest efficiently and unleashes economic prosperity and a superior quality of life for American families. This mission depends upon your strict adherence to the legal framework governing our partnership, and I trust you will take all necessary steps to comply with Federal law and satisfy your legal obligations.

Sincerely,

A handwritten signature in black ink, appearing to read "S.P. Duffy". The signature is stylized with a large, sweeping initial "S" and a circular "P".

Sean P. Duffy

ORDINANCE NO. _____ - 25

**AMENDING CITY OF DUBUQUE CODE OF ORDINANCES TITLE 8 EQUITY AND
HUMAN RIGHTS BY REPEALING TITLE 8 EQUITY AND HUMAN RIGHTS AND
ADOPTING IN LIEU THEREOF A NEW TITLE 8 HUMAN RIGHTS**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
DUBUQUE, IOWA:**

Section 1. Title 8 of the City of Dubuque Code of Ordinances is hereby repealed and the following is adopted in lieu thereof:

TITLE 8: HUMAN RIGHTS

CHAPTER 1: DEFINITIONS; GENERAL PROVISIONS

8-1-1: DEFINITIONS:

When used in this title, the following terms shall have the meanings ascribed herein unless the context otherwise requires:

AUXILIARY AIDS AND SERVICES: A. Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

B. Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments.

C. Acquisition or modification of equipment or devices.

D. Other similar services and actions.

COMMISSION: The Dubuque human rights commission created by chapter 2 of this title.

COURT: The Iowa district court in and for Dubuque County.

COVERED ENTITY: An employer, employment agency, labor organization, or joint labor management committee.

DIRECT THREAT: A significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

DISABILITY: With respect to an individual:

A. A physical or mental impairment that substantially limits one or more major life activities of such individual and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome related complex, or any other condition related to acquired immune deficiency syndrome. The inclusion of a condition

related to a positive human immunodeficiency virus test results, in the meaning of "disability" under the provisions of this title, does not preclude the application of the provisions of this title to conditions resulting from other contagious or infectious diseases.

As described, major life activities:

1. 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, and working.

2. Also include 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.

B. A record of such an impairment.

C. Being regarded as having such an impairment, as described:

1. An individual meets the requirement of being regarded as having such an impairment if the individual establishes that he or she has 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.

2. This provision shall not apply to impairments that are transitory and minor. A "transitory impairment" is an impairment with an actual or expected duration of six (6) months or less.

D. The definition of "disability" shall be construed in accordance with the following:

1. In favor of broad coverage of individuals under this title, to the maximum extent permitted by the terms of this title.

2. "Substantially limits" shall be interpreted consistently with the findings and purposes of the ADA amendments act of 2008.

3. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

4. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

5. a. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:

- (1) Medication, medical supplies, equipment, appliances, low vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies.

- (2) Use of assistive technology.

(3) Reasonable accommodations or auxiliary aids or services.

(4) Learned behavioral or adaptive neurological modifications.

b. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

c. As used in this section:

(1) "Ordinary eyeglasses" or "contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error.

(2) "Low vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

DRUG: A controlled substance, as defined in the code of Iowa.

EMPLOYEE: An individual employed by an employer.

EMPLOYER: The state or any political subdivision, board, commission, department, institution, or school district thereof, and every other person employing employees within the state.

EMPLOYMENT AGENCY: Any person undertaking to procure employees or opportunities to work for any other person or any person holding such person or itself to be equipped to do so.

FAMILIAL STATUS: A. One or more individuals who have not attained the age of eighteen (18) years being domiciled with:

1. A parent or other person having legal custody of such individual or individuals.

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

B. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

GENDER IDENTITY: A gender related identity of a person, regardless of the person's assigned sex at birth.

LABOR ORGANIZATION: Any organization which exists for the purpose, in whole or in part, of collective bargaining, dealing with employees concerning grievances, terms, or conditions of employment, or other mutual aid or protection in connection with employment.

PERSON: An individual, partnership, association, corporation, legal representative, trustee, receiver, any other legal entity, and the state and all political subdivisions and agencies thereof.

PUBLIC ACCOMMODATION: A. Each and every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods for a fee or charge to nonmembers of any organization or association utilizing the place, establishment, or facility; provided, that any place, establishment, or facility that caters or offers services, facilities, or goods to the nonmembers gratuitously shall be deemed a "public accommodation", if the accommodation receives any governmental support or subsidy.

B. "Public accommodation" shall not mean any bona fide private club or other place, establishment, or facility which is by its nature distinctly private, except when such distinctly private place, establishment, or facility caters or offers services, facilities, or goods to the nonmembers for a fee or charge or gratuitously, it shall be deemed a "public accommodation" during such period.

C. "Public accommodation" includes each state and local government unit or tax supported district of whatever kind, nature, or class that offers services, facilities, benefits, grants, or goods to the public, gratuitously or otherwise. This definition shall not be construed by negative implication or otherwise to restrict any part or portion of the preexisting definition.

QUALIFIED INDIVIDUAL WITH A DISABILITY: With respect to chapter 3, article A of this title, an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

READILY ACHIEVABLE: Easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

A. The nature and cost of the action needed under this title.

B. The overall financial resources of the facility or facilities involved in the action, the number of persons employed at such facility, and the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility.

C. The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees, and the number, type and location of its facilities.

D. The type of operation or operations of the covered entity, including the composition, structure, and functions of the work force of such entity and the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

REASONABLE ACCOMMODATION: A. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities.

B. Job restructuring, part time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

SEXUAL ORIENTATION: A person's actual, history of, or perceived heterosexuality, homosexuality, or bisexuality but not including participation in conduct that is prohibited by law.

STATE: Each of the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

UNDUE HARDSHIP: An action requiring significant difficulty or expense. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:

A. The nature and cost of the accommodation needed under this title.

B. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility.

C. The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees, and the number, type, and location of its facilities.

D. The type of operation or operations of the covered entity including the composition, structure, and functions of the work force of such entity and the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

UNFAIR PRACTICE OR DISCRIMINATORY PRACTICE: Those practices specified as unfair or discriminatory in chapters 3 and 5 of this title.

CHAPTER 2: HUMAN RIGHTS COMMISSION

8-2-1: COMMISSION CREATED:

There is hereby created the human rights commission.

8-2-2: PURPOSE:

The purpose of the commission is to establish a human rights commission in conformance with the Iowa Civil Rights Act, to declare the public policy of nondiscrimination in the city; to provide for educational programs to prevent and eliminate discrimination in the city;

and to cooperate with the Iowa Civil Rights Commission in the fulfillment of contractual obligations and the enforcement process.

8-2-3: INTERNAL ORGANIZATION AND RULES:

The commission may adopt rules and regulations to govern its organizational procedures as may be necessary and which are not in conflict with this code or the Iowa Code. The Commission has adopted Administrative Rules which shall govern the work of the body and the enforcement process.

8-2-4: PROCEDURES FOR OPERATION:

All administrative, personnel, accounting, budgetary, and procurement policies of the city govern the commission in all its operations.

8-2-5: MEMBERSHIP:

The commission comprises nine (9) residents of the city, appointed by the city council from various racial, religious, cultural, and social groups within the city.

8-2-6: OATH:

Each person, upon appointment to the commission, must execute an oath of office at the first meeting of the commission following the appointment or at the city clerk's office any time prior to the first meeting of the commission.

8-2-7: TERMS:

The term of office for commissioners is three (3) years or until such commissioner's successor is appointed and qualified.

8-2-8: VACANCIES:

Vacancies must be filled in the same manner as original appointments.

8-2-9: OFFICERS; ORGANIZATION:

A. Chair and Vice Chair. The commissioners must choose annually a chairperson and vice chairperson, each to serve a term of one year.

B. Vacancies in Chair and Vice Chair. The commissioners must fill a vacancy among its officers for the remainder of the officer's unexpired term.

C. Secretary. A city staff member shall serve as secretary.

8-2-10: MEETINGS:

A. Regular Meetings: The commission will be scheduled to meet monthly and must meet at least once per quarter.

B. Special Meetings: Special meetings may be called by the chairperson or at the written request of a majority of the commissioners.

C. Open Meetings: All meetings must be called and held in conformance with the Iowa open meetings law.

D. Attendance:

1. In the event a commissioner has been absent for three (3) or more meetings of the commission, without being excused by the chairperson, such absence will be grounds for the commission to recommend to the city council that the position be declared vacant and a replacement appointed.

2. Attendance must be entered upon the minutes of all meetings.

3. Remote attendance is allowed; arrangements should be made with city staff in advance of the meeting.

E. Minutes: A copy of the minutes of all regular and special meetings of the commission must be filed with the city council within ten (10) working days after approval by the commission, or by the next regularly scheduled city council meeting, whichever is later.

F. Quorum: Five (5) commissioners constitute a quorum for the transaction of business. The affirmative vote of a majority of the commissioners present and voting is necessary for the adoption of any motion or resolution.

8-2-11: COMPENSATION:

Commissioners serve without compensation, provided that they may receive reimbursement for necessary travel and other expenses while on official commission business within the limits established in the city administrative policies and budget.

8-2-12: REMOVAL:

The city council may remove any commissioner for cause upon written charges and after public hearing.

8-2-13: POWERS, DUTIES, AND RESPONSIBILITIES:

The commission serves in an advisory capacity to the City Council and has the following powers, duties, and responsibilities:

A. To study the existence, character, causes, and extent of discrimination in public accommodations, credit transactions, employment, apprenticeship programs, on the job training programs, vocational schools, other educational institutions, and housing in the city and to attempt the elimination of such discrimination through education, conciliation, and recommended changes to policy and practice.

B. To form subcommittees to address specifically identified goals or needs in the community related to the elimination of discrimination.

C. To attend events and training opportunities both within the community and beyond.

D. To actively promote human rights to various groups in the community including governmental bodies, clubs, schools, and media.

E. To assist the City Manager, upon request, in the recruitment and selection of staff.

F. To work with the staff appointed by the City Manager to:

1. Review and provide feedback to city staff on the annual report prepared for transmission to the Mayor and City Council describing the work performed by the staff and the commission;

2. Discuss, develop, and submit budget requests in furtherance of the objectives and goals of the Commission and Department;

3. Review at the regular meetings intake and complaint data.

4. As needed, prepare for public hearings by attending training on the procedures outlined in the Administrative Rules for conducting a hearing.

G. To make recommendations to the City Council concerning the promotion and advancement of respect and belonging in the community and addressing discrimination in order to improve quality of life and livability for all residents, including the adjustment or adoption of regulations consistent with and necessary for the civil rights enforcement provisions of this Title.

H. To cooperate, within the limits of any appropriations made for its operation, with other agencies or organizations, both public and private, whose purposes are consistent with those of this chapter, in the planning and conducting of programs designed to advance respect and belonging and eliminate discrimination and community tensions.

I. To receive, administer, dispense, and account for any restricted funds that may be donated to the commission and any grants that may be awarded the commission for furthering the purposes of this title. No disbursements will be made of any restricted funds without authority from the City Council.

J. On occasion, and pursuant to this Title, the adopted Administrative Rules, the City contract with the Iowa Civil Rights Commission, and the Iowa Code, hold hearings upon a complaint made against a covered person or entity alleging a violation of the protections afforded by this Title for which conciliation efforts have failed to resolve the complaint.

8-2-14: RECORDS TO BE PUBLIC; EXCEPTIONS:

All records of the commission are public except charges, complaints, reports of investigations, statements, and other documents or records obtained in investigation of any charges.

8-2-15: CONFIDENTIALITY OF COMPLAINTS AND INVESTIGATORY MATERIALS:

No member of the commission will disclose the filing of a charge, the information gathered during the investigation, or the endeavors to eliminate such discriminatory or unfair practice by conference, conciliation, or persuasion unless such disclosure is made in connection with the conduct of such investigation or after the commission has held a public hearing upon a complaint filed in connection with such charge. This section does not prevent any complainant, witness, or other person from publicizing the filing of a charge or complaint or the matter therein complained of.

8-2-16: SUBPOENAS:

The staff assigned to the commission may issue subpoenas and order discovery in aid of investigations under this title pursuant to the Administrative Rules. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply for county attorney subpoenas.

CHAPTER 3: UNFAIR AND DISCRIMINATORY PRACTICES

8-3-1: GENERALLY:

A. Aiding Or Abetting: It shall be an unfair or discriminatory practice for:

1. Any person to intentionally aid, abet, compel, or coerce another person to engage in any of the practices declared unfair or discriminatory by this title.

2. Any person to discriminate against another person in any of the rights protected against discrimination on the basis of race, creed, color, sex, national origin, familial status, religion, age, disability, marital status, sexual orientation, or gender identity by this chapter because such person has lawfully opposed any practice forbidden under this

chapter, obeys the provisions of this chapter, or has filed a complaint, testified, or assisted in any proceeding under this title.

3. Any person to discriminate against another person because of the person's relationship or association with a person protected under this title.

B. Sex And Age Discrimination Provisions Not Applicable To Retirement Plans; Exception: The provisions of this title relating to discrimination because of sex or age shall not be construed to apply to any retirement plan or benefit system of any employer unless such plan or system is a mere subterfuge adopted for the purposes of evading the provisions of this title.

1. However, a retirement plan or benefit system shall not require the involuntary retirement of a person because of that person's age.

2. A health insurance program provided by an employer may exclude coverage of abortion, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.

3. An employee welfare plan may provide life, disability, or health insurance benefits which vary by age based on actuarial differences if the employer contributes equally for all the participating employees or may provide for employer contributions differing by age if the benefits for all the participating employees do not vary by age.

C. Sexual Harassment Victim Protection: Evidence concerning the past sexual behavior of an alleged victim of sexual harassment shall not be admissible in any proceeding before the human rights commission.

8-3-2: ACCOMMODATIONS OR SERVICES:

A. Prohibited Practices: It shall be an unfair or discriminatory practice for any owner, lessee, sublessee, proprietor, manager, or superintendent of any public accommodation or any agent or employee thereof:

1. To refuse or deny to any person because of race, creed, color, sex, age, national origin, religion, sexual orientation, or gender identity the accommodations, advantages, facilities, services, or privileges thereof, or otherwise to discriminate against any person because of race, creed, color, sex, age, national origin, religion, sexual orientation, or gender identity in the furnishing of such accommodations, advantages/facilities, services, or privileges.

2. To directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons of any particular race, creed, color, sex, age, national origin, religion, sexual orientation, or gender identity is unwelcome, objectionable, not acceptable, or not solicited.

B. Exemptions: This section shall not apply to:

1. Any bona fide religious institution with respect to any qualifications the institution may impose based on religion when such qualifications are related to a bona fide religious purpose.
2. The rental or leasing to transient individuals of less than four (4) rooms within a single housing accommodation if the occupant or owner or members of the owner's or occupant's family reside therein.
3. Discounts for services or accommodations based upon age.

8-3-3: EMPLOYMENT PRACTICES:

A. Prohibited Practices: It shall be an unfair or discriminatory practice for any:

1. Person to refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the race, creed, color, sex, age, national origin, religion, sexual orientation, or gender identity of such applicant or employee, unless based upon the nature of the occupation.
2. Labor organizations or the employees, agents, or members thereof to refuse to admit to membership any applicant, to expel any member, or to otherwise discriminate against any applicant for membership or any member in the privileges, rights, or benefits of such membership because of the race, creed, color, sex, age, national origin, religion, sexual orientation, or gender identity of such applicant or member.
3. Employer, employment agency, labor organization, or the employees, agents, or members thereof, to directly or indirectly advertise or in any other manner indicate or publicize that individuals of any particular race, creed, color, sex, age, national origin, religion, sexual orientation, or gender identity are unwelcome, objectionable, not acceptable, or not solicited for employment or membership, unless based upon the nature of the occupation.

B. Exemptions:

1. The prohibition by this section of discrimination based on sexual orientation shall not apply to any bona fide religious institution with respect to any qualifications for employment by such institution.
2. This section shall not apply to:
 - a. Any employer who regularly employs less than four (4) individuals. For purposes of this subsection, the owners, owners' spouses, and children shall not be counted as employees.
 - b. The employment of individuals for work within the home of the employer if the employer or members of the employer's family reside therein during such employment.

c. The employment of individuals to render personal service to the person of the employer or members of the employer's family.

d. Any bona fide religious institution or its educational association, corporation, or society with respect to any qualifications for employment based on religion when such qualifications are related to a bona fide religious purpose. A religious qualification for instructional, personnel, or administrative officer serving in a supervisory capacity of a bona fide religious educational facility or religious institution shall be presumed to be a bona fide occupational qualification.

e. Discrimination on the basis of age if the person subject to the discrimination is under the age of eighteen (18) years, unless that person is considered by law to be an adult.

f. A State or Federal program designed to benefit a specific age classification which serves a bona fide public purpose.

8-3-4: CREDIT:

It shall be an unfair or discriminatory practice for any:

A. Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds and current situations because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, sexual orientation, familial status, or gender identity.

B. Person authorized or licensed to do business in this State pursuant to chapters 524, 533, 534, 536, or 536A of the Code of Iowa to refuse to loan or extend to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, sexual orientation, familial status, or gender identity.

C. Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability, sex, sexual orientation, familial status, or gender identity. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or physical disability of the consumer shall not be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by the Code of Iowa or United States Code.

D. The provisions in this section shall not be construed by negative implications or otherwise to narrow or restrict any other provisions of this title.

8-3-5: EDUCATION:

A. Prohibited Practices; Exceptions:

1. It is an unfair or discriminatory practice for any educational institution to discriminate on the basis of race, creed, color, sex, national origin, religion, disability, sexual orientation, or gender identity in any program or activity. Such discriminatory practices shall include, but not be limited to, the following practices:

a. Exclusion of a person or persons from participation in, denial of the benefits of, or subject to discrimination in any academic, research, occupational training, or other program or activity except athletic programs.

b. Denial of comparable opportunity in intramural and interscholastic athletic programs.

c. Discrimination among persons in employment and the conditions of employment.

d. On the basis of sex, the application of any rule concerning the actual or potential parental, family, or marital status of a person or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions dependent upon the physician's diagnosis and certification.

2. For the purposes of this section, "educational institution" includes any preschool, elementary, secondary, or community college, area education agency, postsecondary college or university, and their governing boards. This section does not prohibit an educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided. Nothing in this subsection shall be construed as prohibiting any bona fide religious institution from imposing qualifications based on religion when such qualifications are related to a bona fide religious purpose or any institution from admitting students of only one sex.

B. Examinations And Courses: Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

ARTICLE A. DISABILITY DISCRIMINATION

8-3A-1: EMPLOYMENT PROHIBITED PRACTICES:

A. General Rule: No person shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

B. Construction: As used in subsection A of this section, the term "discriminate against an individual on the basis of disability" includes:

1. Limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee.

2. Participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title. Such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs.

3. Utilizing standards, criteria, or methods of administration:

a. That have the effect of discrimination on the basis of disability.

b. That perpetuate the discrimination of others who are subject to common administrative control.

4. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association.

5. Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity, or denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant.

6. Using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard test or other selection criteria, as used by the covered entity, is shown to be job related for the position in question and is consistent with business necessity.

7. Failing to select and administer tests concerning employment in the most effective manner to ensure that when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant, except where such skills are the factors that the test purports to measure.

8. Soliciting or requiring as a condition of employment of any employee or prospective employee a test for the presence of the antibody to the human immunodeficiency virus or affecting the terms, conditions, or privileges of employment or terminating the employment of any employee solely as a result of the employee obtaining a test for the presence of the antibody to the human immunodeficiency virus. An

agreement between an employer, employment agency, labor organization, or their employees, agents, or members and an employee or prospective employee concerning employment, pay, or benefits to an employee or prospective employee in return for taking a test for the presence of the antibody to the human immunodeficiency virus is prohibited. The prohibitions of this subsection do not apply if the state epidemiologist determines and the state director of public health declares through the utilization of guidelines established by the center for disease control of the United States department of health and human services that a person with a condition related to acquired immune deficiency syndrome poses a significant risk of transmission of the human immunodeficiency virus to other persons in a specific occupation.

C. Medical Examinations And Inquiries:

1. In General: The prohibition against discrimination as referred to in subsection A of this section shall include medical examinations and inquiries.

2. Preemployment:

a. Prohibited Examination Or Inquiry: Except as provided in subsection C3 this section, a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

b. Acceptable Inquiry: A covered entity may make preemployment inquiries into the ability of an applicant to perform job related functions.

3. Employment Entrance Examination: A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant and may condition an offer of employment on the results of such examination, if:

a. All entering employees are subjected to such an examination regardless of disability.

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

(1) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

(2) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

(3) Government officials investigating compliance with this chapter shall be provided relevant information on request.

c. The results of such examination are used only in accordance with this chapter.

4. Examination And Inquiry:

a. **Prohibited Examinations And Inquiries:** A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job related and consistent with business necessity.

b. **Acceptable Examinations And Inquiries:** A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at the work site. A covered entity may make inquiries into the ability of an employee to perform job related functions.

c. **Requirement:** Information obtained under subsection C4b of this section regarding the medical condition or history of any employee is subject to the requirements of subsections C3b and C3c of this section.

8-3A-2: DEFENSES, EXEMPTIONS AND EXCLUSIONS:

A. Defenses:

1. **In General:** It may be a defense to a charge of discrimination under this article that an alleged application of qualification standards, tests, or selection criteria that screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

2. **Qualification Standards:** The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

3. **Qualification Standards And Tests Related To Uncorrected Vision:** Notwithstanding the provisions under the definition of "disability" in section 8-1-1 of this title, a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job related and consistent with business necessity.

4. **Reasonable Accommodation And Good Faith Effort:** In cases where a discriminatory practice involves the provision of a reasonable accommodation pursuant to this subsection, actual damages other than damages for back pay may not be awarded under this title where the covered entity proves, by a preponderance of the evidence, good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

5. **List Of Infectious And Communicable Diseases:**

a. Applications: In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food that is included on the list developed by the secretary of health and human services under 42 USC 12113(d) and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

b. Construction: Nothing in this article shall be construed to preempt, modify, or amend any local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the secretary of health and human services.

B. Exemptions: This article shall not apply to:

1. Any employer who regularly employs less than four (4) individuals. For purposes of this subsection, the owner(s), the owner(s)' spouse(s), and children shall not be counted as employees.

2. The employment of individuals for work within the home of the employer if the employer or members of the employer's family reside therein during such employment.

3. The employment of individuals to render personal service to the person of the employer or members of the employer's family.

4. An employer's qualifications for a job may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace. (Ord. 18-09, 4-6-2009)

C. Exclusions: For purposes of the definition of "disability" in section 8-1-1 of this title, the following are not impairments and as such are not disabilities under this article:

1. Homosexuality, bisexuality, transvestism, transsexualism, and gender identity disorders not resulting from physical impairments;

2. Pedophilia, exhibitionism, voyeurism, or other sexual behavior disorders;

3. Compulsive gambling, kleptomania, or pyromania; or

4. Psychoactive substances use disorders resulting from current illegal use of drugs.

8-3A-3: CONSTRUCTION:

A. Insurance:

1. This title shall not be construed to prohibit or restrict:

a. An insurer, hospital, or medical service company, health maintenance organization, or any agent or entity that administers benefit plans or similar organizations

from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with other laws of this state.

b. A person or organization covered by this title from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with other laws of this state.

c. A person or organization covered by this title from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that is subject to the laws of this state that regulate insurance.

2. Subsection A1 of this section shall not be used as subterfuge to evade the purposes of this title.

B. Accommodations And Services: Nothing in this title shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

C. Smoking: Nothing in this article shall be construed to preclude the prohibition of or the imposition of restrictions on smoking in places of employment or in public accommodations.

8-3A-4: ILLEGAL USE OF DRUGS AND ALCOHOL:

A. Qualified Individual With A Disability: For purposes of this article, a qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

B. Rules Of Construction: Nothing in subsection A of this section shall be construed to exclude as a qualified individual with a disability an individual who:

1. Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use.

2. Is participating in a supervised rehabilitation program and is no longer engaging in such use.

3. Is erroneously regarded as engaging in such use, but is not engaging in such use; except that it shall not be a violation of this title for a covered entity to adopt or administer reasonable policies or procedures including, but not limited to, drug testing designed to ensure that an individual described in subsection B1 or B2 of this section is no longer engaging in the illegal use of drugs. However, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

C. Authority Of Covered Entity: A covered entity:

1. May prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees.

2. May require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace.

3. May hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee.

D. Drug Testing:

1. In General: For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

2. Construction: Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

E. Governmental Regulations: Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Iowa department of transportation or any other state or federal agency of authority to:

1. Test employees of such entities in, and applicants for, positions involving safety sensitive duties for the illegal use of drugs and for on duty impairment by alcohol.

2. Remove such persons who test positive for illegal use of drugs and on duty impairment by alcohol pursuant to subsection E1 of this section from safety sensitive duties in implementing subsection C of this section.

8-3A-5: PUBLIC ACCOMMODATIONS; PROHIBITED PRACTICES:

A. It shall be an unfair or discriminatory practice for any person on the basis of disability to refuse or deny full and equal enjoyment of the goods, services, facilities, privileges, advantages, or other public accommodations.

B. It shall be an unfair or discriminatory practice not to afford an individual or class of individuals on the basis of disability the full and equal enjoyment of a facility in an integrated setting appropriate to the needs of the individual.

C. It shall be an unfair or discriminatory practice for any person to discriminate against an individual or class of individuals in any of the following:

1. It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other

individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, accommodation, or other opportunity that is as effective as that provided to others.

2. Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

3. A public accommodation shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration:

a. That have the effect of discriminating on the basis of disability.

b. That perpetuate the discrimination of others who are subject to common administrative control.

4. It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to a person because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

D. For purposes of subsection A of this section, discrimination includes:

1. The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered.

2. A failure to make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.

3. A failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the goods, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden.

4. A failure to remove architectural barriers and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of hydraulic or other lift), where such removal is readily achievable.

5. Where an entity can demonstrate that the removal of a barrier under subsection D4 this section is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

E. Nothing in this section shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages, and accommodations of such entity where such individual poses a direct threat to the health or safety of others.

8-3A-6: NEW CONSTRUCTION AND ALTERATION OF PUBLIC ACCOMMODATIONS:

A. It shall be an unfair or discriminatory practice for any person on the basis of disability to:

1. Fail to design and construct all public accommodations built after September 1, 1996, so that they are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet such requirements.

2. With respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope.

B. Subsections A1 and A2 of this section shall not be construed to require the installation of an elevator for facilities that are less than three (3) stories or have less than three thousand (3,000) square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a healthcare provider.

CHAPTER 4: ENFORCEMENT OF CIVIL RIGHTS

8-4-1: FILING COMPLAINTS:

A. Filing Of Verified, Written Complaint: All persons claiming to be aggrieved by a discriminatory or unfair practice within this city may sign and file with the commission a

verified, written complaint in triplicate which shall state the name and address of the person alleged to have committed the discriminatory or unfair practice of which complained, shall set forth the particulars thereof, and shall contain such other information as may be required by the commission. The commission, a commissioner, or the city attorney's office may in like manner sign and file such complaint.

B. Protection Of Person's Identity: A person who has tested positive for human immunodeficiency virus or who has a diagnosis of acquired immune deficiency syndrome or a person who is perceived to have human immunodeficiency virus or acquired immune deficiency may file a disability charge utilizing "John Doe", "Jane Doe", or a coded number to protect the person's identity. The name of the charging party shall be disclosed to the respondent. It shall be a discriminatory practice for any person to disclose the name of the coded person or information that would lead to that person's identity.

8-4-2: AMENDMENTS OF COMPLAINTS:

The commission or the complainant shall have the power to reasonably and fairly amend any complaint and the respondent shall have like power to amend such respondent's answer at any time prior to hearing.

8-4-3: TIME LIMITATION FOR FILING COMPLAINT:

A. A claim under this title shall not be maintained unless a complaint is filed with the commission within three hundred (300) days after the alleged discriminatory or unfair practice occurred.

B. For purposes of this section, an unlawful employment practice occurs, with respect to discrimination in compensation in violation of this title, when a discriminatory compensation decision or other practice is adopted, when an individual becomes subject to a discriminatory compensation decision or other practice, or when an individual is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.

8-4-4: COMMISSION STAFF PROCEEDINGS ON COMPLAINTS:

A. Notice To Respondent: After the filing of a verified complaint, a true copy shall be served within twenty (20) days by personal service, certified mail, or overnight mail with tracking to ensure service, on the person against whom the complaint is filed.

B. Screening: The director shall review each complaint and is authorized to administratively close a case when the city manager finds any of the following:

1. Lack of jurisdiction.

2. Minimal impact on civil rights in the community.
3. Further processing is not warranted.

C. Investigation By Staff; Probable Cause Determination By Administrative Law Judge: An authorized member of the commission shall make a prompt investigation and shall issue a recommendation to an administrative law judge under the jurisdiction of the commission, who shall then issue a determination of probable cause or no probable cause.

1. For purposes of this chapter, an administrative law judge issuing a determination of probable cause or no probable cause under this section shall be exempt from section 17A.17 of the code of Iowa.

2. If the administrative law judge concurs with the investigating official that probable cause exists regarding the allegations of the complaint, the staff of the commission shall promptly endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion. If the administrative law judge finds that no probable cause exists, the administrative law judge shall issue a final order dismissing the complaint and the commission shall promptly mail a copy to the complainant and to the respondent by certified mail.

A finding of probable cause shall not be introduced into evidence in an action brought under section 8-4-7 of this chapter.

D. Conciliation Conference And Persuasion Procedures: The commission staff must endeavor to eliminate the discriminatory or unfair practice by conciliation conference and persuasion for a period of thirty (30) days following the initial conciliation meeting between the respondent and the commission staff after a finding of probable cause. After the expiration of thirty (30) days, the city manager may order the conciliation conference and persuasion procedure provided in this section to be bypassed when the city manager determines the procedure is unworkable by reason of past patterns and practices of the respondent or a statement by the respondent that the respondent is unwilling to continue with the conciliation. Upon the bypassing of conciliation, the city manager shall state in writing the reasons for bypassing.

8-4-5: COMMISSION PROCEEDINGS UPON FAILURE TO REACH SETTLEMENT BY CONCILIATION:

A. Notice Of Hearing: When the city manager is satisfied that further endeavor to settle a complaint by conference, conciliation, and persuasion is unworkable and should be bypassed and the thirty (30) day period provided for in section 8-4-4 of this chapter has expired without agreement, the city manager, with the approval of a commissioner, shall issue and cause to be served a written notice:

1. Specifying the charges in the complaint as they may have been amended and the reasons for bypassing further conciliation.

2. Requiring the respondent to answer the charges of the complaint at a hearing before the commission, a commissioner, or a person designated by the commission to conduct the hearing, hereafter referred to as the administrative law judge.

3. Specifying a time and place.

B. Participation Of Commission Personnel: The case in support of such complaint shall be presented at the hearing by one of the commission's attorneys or agents. The investigating official shall not participate in the hearing except as a witness, nor shall the official participate in the deliberations of the commission in such case.

C. Conduct Of Hearing: The hearing shall be conducted in accordance with the provisions of chapter 17A of the code of Iowa for contested cases. The burden of proof in such a hearing shall be on the commission.

D. Proposed Order By Hearing Panel Or Judge: In the case of a proposed order by a hearing panel or administrative law judge, the commission may review such proposed order within sixty (60) days. If the commission fails to review such proposed order within sixty (60) days, the proposed order shall become the final order of the commission.

8-4-6: COMMISSION ORDERS:

A. Upon Finding Of Discriminatory, Unfair Practice: If, upon taking into consideration all of the evidence at a hearing, the commission determines that the respondent has engaged in a discriminatory or unfair practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take the necessary remedial action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, and to any other public officers and persons as the commission deems proper.

1. Remedial Actions: For the purposes of this subsection and pursuant to the provisions of this chapter, remedial action includes, but is not limited to, the following:

a. Hiring, reinstatement, or upgrading of employees with or without pay. Interim earned income and unemployment compensation shall operate to reduce the pay otherwise allowable.

b. Admission or restoration of individuals to a labor organization, admission to or participation in a guidance program, apprenticeship training program, on the job training program, or other occupational training or retraining program with the utilization of objective criteria in the admission of individuals to such programs.

c. Admission of individuals to a public accommodation or an education institution.

d. Sale, exchange, lease, rental, assignment, or sublease of real property to an individual.

e. Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent denied to the complainant because of the discriminatory or unfair practice.

f. Reporting as to the manner of compliance.

g. Posting notices in conspicuous places in the respondent's place of business in form prescribed by the commission and inclusion of notices in advertising material.

h. Payment to the complainant of damages for an injury caused by the discriminatory or unfair practice, which damages shall include, but are not limited to, damages and reasonable attorney fees.

i. Reimbursement to the commission for contested case costs.

2. Requirements To Cease And Desist Certifications To Licensing And Contracting Agencies: In addition to the remedies provided in the preceding provisions of this section, the commission may issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and may take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter as follows:

a. In the case of a respondent operating by virtue of a license issued by the state or a political subdivision or agency, if the commission, upon notice to the respondent with an opportunity to be heard, determines that the respondent has engaged in a discriminatory or unfair practice and that the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of such officer's or executive agent's employment, the commission shall so certify to the licensing agency. Unless the commission finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the licensing agency.

b. In the case of a respondent who is found by the commission to have engaged in a discriminatory or unfair practice in the course of performing under a contract or subcontract with the state or political subdivision or agency, if the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of such officer's or executive agent's employment, the commission shall so certify to the contracting agency. Unless the commission's finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the contracting agency.

B. Upon Hearing Finding Of No Discriminatory, Unfair Practice: If, upon taking into consideration all of the evidence at a hearing, the commission finds that a respondent has not engaged in any such discriminatory or unfair practice, the commission shall issue an order denying relief and stating the findings of fact and conclusions of the commission and shall cause a copy of the order dismissing the complaint to be served by regular mail on the complainant and the respondent.

C. Upon Conciliation Agreements:

1. The terms of a conciliation agreement reached with the respondent may require the respondent to refrain in the future from committing discriminatory or unfair practices of the type stated in the agreement, to take remedial action as in the judgment of the commission will carry out the purposes of this code, and to consent to the entry in an appropriate district court of a consent decree embodying the terms of the conciliation agreement. Violation of such a consent decree may be punished by contempt by the court in which it is filed upon a showing by the commission of the violation at any time within six (6) months of its occurrence. In all cases where a conciliation agreement is entered into, the commission shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent, and such other persons as the commission deems proper.

2. At any time, in its discretion, the commission may investigate whether the terms of the agreement are being complied with by the respondent. Upon a finding that the terms of the conciliation agreement are not being complied with by the respondent, the commission shall take appropriate action to assure compliance.

8-4-7: RELEASE FROM ADMINISTRATIVE PROCESS; ALTERNATIVE JUDICIAL PROCEEDINGS UPON COMPLAINTS:

A. Administrative Release: A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek an administrative relief by filing a complaint with the commission in accordance with section 8-4-1 of this chapter. A complainant, after the proper filing of a complaint with the commission, may subsequently commence an action for relief in the district court if all of the following conditions have been satisfied:

1. The complainant has timely filed the complaint with the commission as provided in section 8-4-3 of this chapter.

2. The complaint has been on file with the commission at least sixty (60) days and the commission has issued a release to the complainant pursuant to this section.

3. The complainant has requested an administrative release from the Iowa civil rights commission via the Dubuque human rights commission.

4. The complainant has received an administrative release from the Iowa civil rights commission.

B. Screening Of Complaint: It is the legislative intent of this section that every complaint be at least preliminarily screened during the first sixty (60) days. This subsection does not authorize administrative closures if an investigation is warranted.

8-4-8: PROVISIONAL REMEDIES:

If, any time after the filing of a complaint, it shall appear to the commission that there is reason to believe that the party charged has violated this chapter and there is reason to believe that the person charged is about to commit acts which would make impossible

compliance with an order of the commission to alleviate the grievance, or it appears that a complainant may suffer irreparable injury as a result of alleged violation, the commission's attorney may seek a temporary injunction restraining the party charged from doing these acts pending completion of the proceedings under this chapter. A temporary injunction may be issued only after the respondent has been notified and afforded the opportunity to be heard, except that an ex parte temporary injunction may be issued when the complainant alleges housing discrimination.

8-4-9: JUDICIAL REVIEW; ENFORCEMENT ACTIONS:

A. Filing Petition For Judicial Review: Judicial review of the actions of the commission may be sought in accordance with the terms of the Iowa administrative procedure act [1](#) . Notwithstanding the terms of such act, petition for judicial review may be filed in the district court in which an enforcement proceeding under subsection B of this section may be brought. For purposes of the time limit for filing a petition for judicial review under the Iowa administrative procedure act, the issuance of a final decision of the commission under this chapter occurs on the date notice of the decision is mailed by regular mail to the parties. Notwithstanding the time limit provided in section 17A.19, subsection 3 of the code of Iowa, a petition for judicial review of no probable cause decisions and other final agency actions which are not of general applicability must be filed within thirty (30) days of the issuance of the final agency action.

B. Order For Enforcement: The commission may obtain an order for the enforcement of commission orders in a proceeding as provided in this section. Such an enforcement proceeding shall be brought in the district court of the district in the county in which the alleged discriminatory or unfair practice which is the subject of the commission's order was committed, or in which any respondent required in the order to cease or desist from a discriminatory or unfair practice or take other affirmative action, resides or transacts business.

C. Transcript Of Record Of Hearing Filed With Court: Such an enforcement proceeding shall be initiated by the filing of a petition in such court and the service of a copy thereof upon the respondent. Thereupon, the commission shall file with the court a transcript of the record of the hearing before it. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript an order enforcing, modifying, and enforcing as so modified, or setting aside the order of the commission, in whole or in part.

D. Consideration Of Objection: An objection that has not been urged before the commission shall not be considered by the court in an enforcement proceeding unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

E. Remission Of Case To Commission: Any party to the enforcement proceeding may move the court to remit the case to the commission in the interests of justice for the purposes of adducing additional specified and material evidence and seeking findings

thereof, provided such party shall show reasonable grounds for the failure to adduce such evidence before the commission.

F. **Determination Under State Statute:** In the enforcement proceeding, the court shall determine its order on the same basis as it would in a proceeding reviewing commission action under section 17A.19 of the code of Iowa.

G. **Availability Of Testimony:** The commission's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the commission's orders.

H. **Commission Attorney Appearance In Court:** The commission may appear in court by its own attorney.

I. **Expeditious Hearing On Petitions:** Petitions filed under this section shall be heard expeditiously and determined upon the transcript filed without requirement for hearing.

J. **Failure To Obtain Judicial Review:** If no proceeding to obtain judicial review is instituted within thirty (30) days from the service of an order of the commission under section 8-4-6 of this chapter, the commission may obtain an order of the court for the enforcement of such order upon showing that respondent is subject to the jurisdiction of the commission and resides or transacts business within the county in which the petition for enforcement is brought.

Notes

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1. IC ch. 17A.

8-4-10: RULE OF CONSTRUCTION:

This chapter shall be construed liberally to effectuate its purpose.

CHAPTER 5: FAIR HOUSING

8-5-1: DEFINITIONS:

As used in this chapter:

AGGRIEVED PERSON: Any person who:

A. Claims to have been injured by discriminatory housing practice.

B. Believes that such person will be injured by a discriminatory housing practice that is about to occur.

COMPLAINANT: The person who files a complaint under section 8-5-6 of this chapter.

CONCILIATION: The attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the commission.

CONCILIATION AGREEMENT: A written agreement setting forth the resolution of the issues in conciliation.

DISCRIMINATORY HOUSING PRACTICE: An act that is unlawful under section 8-5-2, 8-5-4, or 8-5-5 of this chapter.

DWELLING: Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

FAMILY: A single individual.

PERSON: An individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint stock company, trust, unincorporated organizations, trustees, trustee in cases under title 11 of the United States code, receiver, fiduciary, or any other legal entity.

PREVAILING PARTY: The same as such term has in section 722 of the revised statutes of the United States (42 USC 1988).

RESPONDENT: A. The person or other entity accused in a complaint of an unfair housing practice.

B. Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under subsection 8-5-6A of this chapter.

SECRETARY: The U.S. secretary of housing and urban development.

STATE: The state of Iowa and any of its political subdivisions.

TO RENT: To lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant.

8-5-2: PROHIBITIONS:

It shall be unlawful:

A. To 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, a dwelling to any person because of race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity.

B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity.

C. To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity, or an intention to make any such preference, limitation, or discrimination.

D. To represent to any person because of race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or disabled persons of a particular race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity.

F. 1. To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of:

- a. That buyer or renter.
- b. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.
- c. Any person associated with that buyer or renter.

2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection with such dwelling, because of a disability of:

- a. That person.
- b. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.
- c. Any person associated with that person.

3. For purposes of this subsection, discrimination includes:

- a. A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter, agreeing to restore the interior of the premises to the condition that existed before 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 such person equal opportunity to use and enjoy a dwelling.

c. In connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:

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

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

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

(A) An accessible route into and through the dwelling.

(B) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

(C) Reinforcements in bathroom walls to allow later installation of grab bars.

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

4. Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for physically disabled persons (commonly cited as ANSI A117.1) suffices to satisfy the requirements of subsection F3c(3) of this section.

5. As used in this subsection, the term "covered multi-family dwellings" means:

a. Buildings consisting of four (4) or more units if such buildings have one or more elevators.

b. Ground floor units in other buildings consisting of four (4) or more units.

6. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

8-5-3: EXEMPTIONS:

A. Exemptions Enumerated: Nothing in section 8-5-2 of this chapter, other than subsection 8-5-2C of this chapter, shall apply to:

1. Any single-family house sold or rented by an owner; provided, that:

a. The private individual owner does not own more than three (3) such single-family houses at any one time.

b. In the sale of any single-family house, the private individual owner does not reside in, nor is the most recent resident of such house prior to such sale; the exemption granted by this subsection shall apply to only one such sale within a twenty four (24) month period.

c. The bona fide private individual owner does not own any interest in, nor is there owned or reserved on the owner's behalf, under express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at one time.

d. There is no utilization in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person.

e. There is no publication, posting, or mailing, after notice, of any advertisement or written notice in violation of subsection 8-5-2C of this chapter. Nothing in this subsection prohibits the utilization of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

B. Selling Or Renting Dwellings: For the purposes of subsection A of this section, a person shall be deemed to be in the business of selling or renting dwellings if:

1. The person has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein.

2. The person has, within the preceding twelve (12) months, participated as agent, other than in the sale of the person's own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein.

3. The person is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

C. Religious Or Nonprofit Organizations: Nothing in this chapter shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity. Nor shall anything in this chapter prohibit

a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other occupancy of such lodging to its members or from giving preference to its members.

D. Applicability Of Housing Regulations; Housing For Older Persons:

1. Nothing in this chapter limits the applicability of title 14, chapter 1 of this code regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this chapter regarding familial status or age apply with respect to housing for older persons.

2. As used in this section, "housing for older persons" means housing:

a. Provided under any state or federal program that the secretary determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program.

b. Intended for, and solely occupied by, persons sixty two (62) years of age or older.

c. Intended and operated for occupancy by at least one person fifty five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the commission shall develop regulations which require at least the following factors:

(1) That at least eighty percent (80%) of the units are occupied by at least one person fifty five (55) years of age or older per unit.

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

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

a. Persons residing in such housing as of the date of enactment of this chapter who do not meet the age requirements of subsection D2b or D2c of this section; provided, that new occupants of such housing meet the age requirements of subsection D2b or D2c of this section.

b. Unoccupied units; provided, that such units are reserved for occupancy by persons who meet the age requirements of subsection D2b or D2c of this section.

4. Nothing in this chapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in the controlled substances act (21 USC 802) or a violation of the controlled substances chapter of the Iowa Code [1](#) .

Notes

8-5-4: DISCRIMINATION IN RESIDENTIAL REAL ESTATE RELATED TRANSACTIONS:

A. In General: It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity.

B. Definition: As used in this section, the term "residential real estate related transaction" means any of the following:

1. The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing, or maintaining a dwelling.
 - b. Secured by residential real estate.
2. The selling, brokering, or appraising of residential real property.

C. Appraisal Exemption: Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity.

8-5-5: DISCRIMINATION IN PROVISION OF BROKERAGE SERVICES:

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

8-5-6: ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS:

A. Complaints And Answers:

1. An aggrieved person may, not later than three hundred (300) days after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the commission alleging such discriminatory housing practice. The commission, on the commission's own initiative, a commissioner, or the city attorney's office may also file such a complaint.

2. Such complaints shall be in writing and shall contain such information and be in such form as the commission requires.

3. The commission may also investigate housing practices to determine whether a complaint should be brought under this section.

4. Upon the filing of such a complaint:

a. The commission shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this chapter;

b. The commission shall, not later than ten (10) days after such filing or the identification of an additional respondent under subsection A7 of this section, serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this chapter, together with a copy of the original complaint;

c. Each respondent may file, not later than ten (10) days after receipt of notice from the commission, an answer to such complaint; and

d. The commission shall make an investigation of the alleged discriminatory housing practice and complete such investigation within one hundred (100) days after the filing of the complaint unless it is impracticable to do so.

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

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

7. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice. Such notice, in addition to meeting the requirements of subsection A of this section, shall explain the basis for the commission's belief that the person to whom the notice is addressed is properly joined as a respondent.

B. Investigative Report And Conciliation:

1. Beginning with the filing of a complaint, the commission shall, to the extent feasible, engage in conciliation with respect to such complaint.

2. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the commission.

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

4. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this chapter.

5. a. At the end of each investigation under this section, the commission shall prepare a final investigative report containing:

(1) The names and dates of contacts with witnesses.

(2) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent.

(3) A summary description of other pertinent records.

(4) A summary of witness statements.

(5) Answers to interrogatories.

b. A final report under this subsection may be amended if additional evidence is later discovered.

C. Failure To Comply With Conciliation Agreement: Whenever the commission has probable cause to believe that a respondent has breached a conciliation agreement, the commission shall refer the matter to the city attorney's office with a recommendation that a civil action be filed for the enforcement of such agreement.

D. Prohibitions And Requirements With Respect To Disclosure Of Information:

1. Nothing said or done in the course of conciliation under this chapter may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned.

2. Notwithstanding subsection D1 of this section, the commission shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the commission's investigation, information derived from an investigation and any final investigative report relating to that investigation.

E. Prompt Judicial Action: If the commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this chapter, the commission may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such authorization, the city attorney's office shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Iowa rules of civil procedure. The commencement of a civil action under this subsection does not affect the initiation of continuation of administrative proceedings under this chapter.

8-5-7: PROBABLE CAUSE DETERMINATION AND EFFECT:

A. Issuance Of Determination: If the commission determines that probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall immediately issue a determination unless the commission determines that the legality of a zoning or land use law or ordinance is involved as provided in subsection D of this section.

B. Conditions Of Determination: A cause determination must:

1. Consist of a short and plain statement of the facts on which the commission has found probable cause to believe that a discriminatory housing or real estate practice has occurred or is about to occur.

2. Be based on the final investigative report.

3. Need not be limited to the facts or grounds alleged in the complaint.

C. Distribution Of Copies Of Determination: Not later than twenty (20) days after the commission issues a cause determination, the commission shall send a copy of the determination with information as to how to make an election under section 8-5-9 of this chapter to all of the following persons:

1. Each respondent.

2. Each aggrieved person on whose behalf the complaint was filed.

D. Land Use Issues: If the commission determines that the matter involves the legality of a state or local zoning or other land use ordinance, the commission shall not issue a determination and shall immediately refer the matter to the city attorney's office for appropriate action.

E. Dismissal Of Complaint: If the commission determines that no probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall promptly dismiss the complaint. The commission shall make public disclosure of each dismissal under this chapter.

F. Trial Or Civil Action: The commission shall not issue a determination under this subsection regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to the discriminatory housing or real estate practice.

8-5-8: SUBPOENAS; GIVING OF EVIDENCE:

A. In General: The commission may issue subpoenas and order discovery in aid of investigations and hearings under this chapter. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply for county attorney subpoenas.

B. Criminal Penalties:

1. Any person who wilfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to a subpoena or other lawful order under subsection A of this section, shall be referred to the city attorney's office or the county attorney's office for prosecution.

2. Any person who, with intent thereby to mislead another person in any proceeding under this chapter, does the following shall be referred to the city attorney's office or the county attorney's office for prosecution:

a. Makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection A of this section;

b. Wilfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents;

c. Wilfully mutilates, alters, or by any other means falsifies any documentary evidence.

8-5-9: ENFORCEMENT BY COMMISSION:

A. Election Of Judicial Determination: When a probable cause determination has been issued, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in that complaint decided in a civil action under section 8-5-12 of this chapter in lieu of a hearing under subsection F of this section. The election must be made not later than twenty (20) days after the receipt by the electing person of service under section 8-5-7 of this chapter, or, in the case of the commission, not later than twenty (20) days after such service. The person making such election shall give notice of doing so to the commission and to all other complaints and respondents to whom the complaint relates.

B. Administrative Law Judge Hearing In Absence Of Election: If an election is not made under subsection A of this section with respect to a complaint, the commission shall provide an opportunity for a hearing on the record with respect to the complaint issued under section 8-5-6 of this chapter. The commission shall delegate the conduct of a hearing under this section to an administrative law judge appointed by the commission.

C. Rights Of Parties: At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross examine witnesses, and obtain the issuance of subpoenas under section 8-5-8 of this chapter. Any aggrieved person may intervene as a party in the proceeding. The Iowa rules of evidence apply to the presentation of evidence in such hearing as they would in a civil action in the Iowa district court.

D. Expedited Discovery And Hearing:

1. Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

2. A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

E. Resolution Of Charge: Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

F. Hearings, Findings, Conclusions And Order:

1. The administrative law judge shall commence the hearing under this section no later than one hundred twenty (120) days following the probable cause determination, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within one hundred twenty (120) days after the determination, the administrative law judge shall notify the commission, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing, of the reasons for not doing so.

2. The administrative law judge shall make findings of fact and conclusions of law within sixty (60) days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding sixty (60) day period thereafter, the administrative law judge shall notify the commission, the aggrieved person on whose behalf the charge was filed and the respondent, in writing, of the reasons for not doing so.

3. If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent in an amount not to exceed those established by the federal fair housing act in section 42 USC 3612.

4. No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this chapter.

5. In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the commission shall, not later than thirty (30) days after the date of the issuance of such order or if such order is judicially reviewed, thirty (30) days after such order is in substance affirmed upon such review:

a. Send copies of the findings of fact, conclusion of law, and the order to that governmental agency.

b. Recommend to that governmental agency appropriate disciplinary action including, where appropriate, the suspension or revocation of the license of the respondent.

6. If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The commission shall make public disclosure of each such dismissal.

7. An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under a federal or state law, seeking relief with respect to that discriminatory housing practice.

8-5-10: REVIEW BY COMMISSION; SERVICE OF FINAL ORDER:

A. The commission may review any finding, conclusion, or order issued under section 8-5-9 of this chapter. Such review shall be completed not later than sixty (60) days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

B. The commission shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

8-5-11: JUDICIAL REVIEW:

A. Review Of Order: Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain review of such order by filing a petition for review not later than thirty (30) days after the order is issued in the Iowa district court pursuant to chapter 17A, code of Iowa.

B. Court Enforcement Of Administrative Order Upon Petition By Commission:

1. The commission may petition the Iowa district court in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

2. The commission shall file in court with the petition the record of the proceeding. A copy of such petition shall be forthwith transmitted by the commission to the parties to the proceeding before the administrative law judge.

C. Relief Which May Be Granted:

1. Upon the filing of a petition under section 8-5-6 of this chapter, the court may, pursuant to section 216.17 of the code of Iowa:

a. Grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper.

b. Affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings.

c. Enforce such order to the extent that such order is affirmed or modified.

2. Any party to the proceeding before the administrative law judge may intervene on appeal to the court.

3. No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

D. Court Enforcement Of Administrative Order Upon Petition Of Any Person Entitled To Relief: After a final order of the commission, any person entitled to relief under the order may petition for a decree enforcing the order in the Iowa district court in Dubuque County, Iowa.

E. Civil Action For Enforcement When Election Is Made For Such Civil Action:

1. If an election is made under subsection 8-5-7C of this chapter, the commission shall authorize, not later than thirty (30) days after the election is made, the city attorney's office to commence and maintain a civil action on behalf of the aggrieved person in the Iowa district court in and for Dubuque County seeking relief under this subsection in accordance with section 216.16A of the code of Iowa.

2. Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

3. In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 8-5-12 of this chapter. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 8-5-12 of this chapter shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

F. Attorney Fees: In any administrative proceeding brought under this section or any court proceeding arising therefrom or any civil action, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the commission, reasonable attorney fees and costs.

8-5-12: ENFORCEMENT BY PRIVATE PERSONS:

A. Civil Action:

1. An aggrieved person may commence a civil action in an appropriate United States district court or state court not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this chapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

2. The computation of such two (2) year period shall not include any time during which an administrative proceeding under this chapter was pending with respect to a complaint or charge under this chapter based upon such discriminatory housing practice. This subsection does not apply to actions arising from a breach of a conciliation agreement.

B. Conciliation Agreement Precludes Action: An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 8-5-6 of this chapter and without regard to the status of any such complaint, but if the commission or the Iowa civil rights commission has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

C. Administrative Hearing Precludes Civil Action: An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice if an administrative law judge has commenced a hearing on the record under this chapter with respect to such charge.

D. Appointment Of Attorney By Court: Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may:

1. Appoint an attorney for such person.

2. Authorize the commencement or continuation of a civil action under subsection A of this section without the payment of fees, costs, or security if in the opinion of the court such person is financially unable to bear the costs of such action.

E. Relief Which May Be Granted:

1. In a civil action under subsection A of this section, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages and, subject to subsection F of this section, may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate.

2. In a civil action under subsection A of this section, the court, in its discretion, may allow the prevailing party reasonable attorney fees and costs.

F. Effect On Certain Sales, Encumbrances And Rentals: Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the filing of a complaint or civil action under this chapter.

G. Intervention By City Attorney's Office: Upon timely application, the city attorney's office may intervene in such civil action, if the city attorney's office certifies that the case is of general public importance. Upon such intervention, the city attorney's office may obtain such relief as would be available to the city attorney's office under section 8-5-13 of this chapter in a civil action to which such section applies.

8-5-13: ENFORCEMENT BY CITY ATTORNEY'S OFFICE:

A. Probable Cause: On the request of the commission, the city attorney's office may file a civil action in the district court for appropriate relief if the commission has probable cause to believe that any of the following applies:

1. A person is engaged in a pattern or practice of resistance to the full enjoyment of any housing right granted by this chapter.

2. A person has been denied any housing right granted by this chapter and that denial raises an issue of general public importance.

B. Legal Action; Enforcement: The commission may request the city attorney's office to take appropriate legal action of a discriminatory housing practice or to enforce a conciliation agreement.

1. The city attorney's office may commence a civil action in any appropriate court for appropriate relief with respect to a discriminatory housing practice referred to the city attorney's office.

2. A civil action under this subsection may be commenced no later than the expiration of the two (2) years after the date of the occurrence of the termination of the alleged discriminatory housing practice as provided in section 216.16A of the code of Iowa.

3. The city attorney's office may commence a civil action in any appropriate court for appropriate relief with respect to breach of a conciliation agreement referred to the city attorney's office by the commission.

4. A civil action may be commenced under this subsection no later than the expiration of ninety (90) days after the referral of the alleged breach under subsection 8-5-6C of this chapter.

5. The city attorney's office, on behalf of the commission or other party at whose request a subpoena is issued under this chapter, may enforce such subpoena in

appropriate proceedings in the district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

6. Relief may be granted in civil actions under subsections A and B of this section in accordance with section 216.17A of the code of Iowa. In a civil action under subsection A or B of this section, the court:

a. May award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this chapter as is necessary to assure the full enjoyment of the rights granted by this chapter.

b. May award such other relief as the court deems appropriate, including monetary damages to the person aggrieved.

c. May, to vindicate the public interest, assess a civil penalty against the respondent:

(1) In an amount not exceeding fifty thousand dollars (\$50,000.00) for a first violation.

(2) In an amount not exceeding one hundred thousand dollars (\$100,000.00) for any subsequent violation.

C. Attorney Fees And Costs: In a civil action under this section, the court, in its discretion, may allow the prevailing party reasonable attorney fees and costs.

D. Intervention In Civil Actions: Upon timely application, any person may intervene in a civil action commenced by the city attorney's office under subsection A or B of this section, which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 8-5-12 of this chapter.

8-5-14: COOPERATION WITH STATE AND FEDERAL AGENCIES:

The commission may cooperate with state and federal agencies charged with the administration of state and federal fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, in furtherance of such cooperative efforts, the commission may enter into written agreements with such state or federal agencies.

8-5-15: INTERFERENCE, COERCION OR INTIMIDATION; ENFORCEMENT BY CIVIL ACTION:

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of such person having aided or encouraged any

other person in the exercise or enjoyment of, any right granted or protected by this chapter.

8-5-16: VIOLATIONS; BODILY INJURY; DEATH; PENALTIES:

Whoever, whether or not acting under color of law, by force or threat of force wilfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with the following described persons shall be referred to the county attorney's office for prosecution:

A. Any person because of such person's race, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity and because such person is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings.

B. Any person because such person is or has been, or in order to intimidate such person or any other person or any class of persons from:

1. Participating, without discrimination on account of race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity in the activities, services, organizations, or facilities described in subsection A of this section.

2. Affording another person or class of persons opportunity or protection so to participate.

C. Any citizen because such person is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity in any of the activities, services, organizations, or facilities described in subsection A of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.

8-5-17: DISCLAIMER OF PREEMPTIVE EFFECT:

Nothing in this chapter limits any right, procedure, or remedy available under the federal or state constitution.

Section 2. This ordinance shall take effect upon publication.

Passed, approved, and adopted this ____ day of _____, 2025.

Brad M. Cavanagh, Mayor

Attest:

Adrienne Breitfelder, City Clerk

ORDINANCE NO. _____ - 25

AMENDING CITY OF DUBUQUE CODE OF ORDINANCES TITLE 8 EQUITY AND
HUMAN RIGHTS BY REPEALING TITLE 8 EQUITY AND HUMAN RIGHTS AND
ADOPTING IN LIEU THEREOF A NEW TITLE 8 HUMAN RIGHTS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
DUBUQUE, IOWA:

Section 1. Title 8 of the City of Dubuque Code of Ordinances is hereby repealed and the following is adopted in lieu thereof:

TITLE 8: ~~EQUITY AND~~ HUMAN RIGHTS

CHAPTER 1: DEFINITIONS; GENERAL PROVISIONS

8-1-1: DEFINITIONS:

When used in this title, the following terms shall have the meanings ascribed herein unless the context otherwise requires:

AUXILIARY AIDS AND SERVICES: A. Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

B. Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments.

C. Acquisition or modification of equipment or devices.

D. Other similar services and actions.

COMMISSION: The Dubuque ~~equity and~~ human rights commission created by chapter 2 of this title.

COURT: The Iowa district court in and for Dubuque County.

COVERED ENTITY: An employer, employment agency, labor organization, or joint labor management committee.

DIRECT THREAT: A significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

DISABILITY: With respect to an individual:

A. A physical or mental impairment that substantially limits one or more major life activities of such individual and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome related complex, or any other

condition related to acquired immune deficiency syndrome. The inclusion of a condition related to a positive human immunodeficiency virus test results, in the meaning of "disability" under the provisions of this title, does not preclude the application of the provisions of this title to conditions resulting from other contagious or infectious diseases.

As described, major life activities:

1. 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, and working.

2. Also include 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.

B. A record of such an impairment.

C. Being regarded as having such an impairment, as described:

1. An individual meets the requirement of being regarded as having such an impairment if the individual establishes that he or she has 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.

2. This provision shall not apply to impairments that are transitory and minor. A "transitory impairment" is an impairment with an actual or expected duration of six (6) months or less.

D. The definition of "disability" shall be construed in accordance with the following:

1. In favor of broad coverage of individuals under this title, to the maximum extent permitted by the terms of this title.

2. "Substantially limits" shall be interpreted consistently with the findings and purposes of the ADA amendments act of 2008.

3. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

4. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

5. a. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:

- (1) Medication, medical supplies, equipment, appliances, low vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies.

- (2) Use of assistive technology.

(3) Reasonable accommodations or auxiliary aids or services.

(4) Learned behavioral or adaptive neurological modifications.

b. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

c. As used in this section:

(1) "Ordinary eyeglasses" or "contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error.

(2) "Low vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

DRUG: A controlled substance, as defined in the code of Iowa.

EMPLOYEE: An individual employed by an employer.

EMPLOYER: The state or any political subdivision, board, commission, department, institution, or school district thereof, and every other person employing employees within the state.

EMPLOYMENT AGENCY: Any person undertaking to procure employees or opportunities to work for any other person or any person holding such person or itself to be equipped to do so.

FAMILIAL STATUS: A. One or more individuals who have not attained the age of eighteen (18) years being domiciled with:

1. A parent or other person having legal custody of such individual or individuals.

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

B. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

GENDER IDENTITY: A gender related identity of a person, regardless of the person's assigned sex at birth.

LABOR ORGANIZATION: Any organization which exists for the purpose, in whole or in part, of collective bargaining, dealing with employees concerning grievances, terms, or conditions of employment, or other mutual aid or protection in connection with employment.

PERSON: An individual, partnership, association, corporation, legal representative, trustee, receiver, any other legal entity, and the state and all political subdivisions and agencies thereof.

PUBLIC ACCOMMODATION: A. Each and every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods for a fee or charge to nonmembers of any organization or association utilizing the place, establishment, or facility; provided, that any place, establishment, or facility that caters or offers services, facilities, or goods to the nonmembers gratuitously shall be deemed a "public accommodation", if the accommodation receives any governmental support or subsidy.

B. "Public accommodation" shall not mean any bona fide private club or other place, establishment, or facility which is by its nature distinctly private, except when such distinctly private place, establishment, or facility caters or offers services, facilities, or goods to the nonmembers for a fee or charge or gratuitously, it shall be deemed a "public accommodation" during such period.

C. "Public accommodation" includes each state and local government unit or tax supported district of whatever kind, nature, or class that offers services, facilities, benefits, grants, or goods to the public, gratuitously or otherwise. This definition shall not be construed by negative implication or otherwise to restrict any part or portion of the preexisting definition.

QUALIFIED INDIVIDUAL WITH A DISABILITY: With respect to chapter 3, article A of this title, an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

READILY ACHIEVABLE: Easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

A. The nature and cost of the action needed under this title.

B. The overall financial resources of the facility or facilities involved in the action, the number of persons employed at such facility, and the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility.

C. The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees, and the number, type and location of its facilities.

D. The type of operation or operations of the covered entity, including the composition, structure, and functions of the work force of such entity and the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

REASONABLE ACCOMMODATION: A. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities.

B. Job restructuring, part time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

SEXUAL ORIENTATION: A person's actual, history of, or perceived heterosexuality, homosexuality, or bisexuality but not including participation in conduct that is prohibited by law.

STATE: Each of the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

UNDUE HARDSHIP: An action requiring significant difficulty or expense. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:

A. The nature and cost of the accommodation needed under this title.

B. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility.

C. The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees, and the number, type, and location of its facilities.

D. The type of operation or operations of the covered entity including the composition, structure, and functions of the work force of such entity and the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

UNFAIR PRACTICE OR DISCRIMINATORY PRACTICE: Those practices specified as unfair or discriminatory in chapters 3 and 5 of this title.

CHAPTER 2: **~~EQUITY AND~~ HUMAN RIGHTS COMMISSION**

8-2-1: COMMISSION CREATED:

There is hereby created the ~~equity and~~ human rights commission.

8-2-2: PURPOSE:

The purpose of the commission is to establish a human rights commission in conformance with the Iowa Civil Rights Act, to declare the public policy of nondiscrimination in the city; to provide for educational programs to prevent and eliminate discrimination in the city;

and to cooperate with the Iowa Civil Rights Commission in the fulfillment of contractual obligations and the enforcement process.

8-2-3: INTERNAL ORGANIZATION AND RULES:

The commission may adopt rules and regulations to govern its organizational procedures as may be necessary and which are not in conflict with this code or the Iowa Code. The Commission has adopted Administrative Rules which shall govern the work of the body and the enforcement process.

8-2-4: PROCEDURES FOR OPERATION:

All administrative, personnel, accounting, budgetary, and procurement policies of the city govern the commission in all its operations.

8-2-5: MEMBERSHIP:

The commission comprises nine (9) residents of the city, appointed by the city council from various racial, religious, cultural, and social groups within the city.

8-2-6: OATH:

Each person, upon appointment to the commission, must execute an oath of office at the first meeting of the commission following the appointment or at the city clerk's office any time prior to the first meeting of the commission.

8-2-7: TERMS:

The term of office for commissioners is three (3) years or until such commissioner's successor is appointed and qualified.

8-2-8: VACANCIES:

Vacancies must be filled in the same manner as original appointments.

8-2-9: OFFICERS; ORGANIZATION:

A. Chair and Vice Chair. The commissioners must choose annually a chairperson and vice chairperson, each to serve a term of one year.

B. Vacancies in Chair and Vice Chair. The commissioners must fill a vacancy among its officers for the remainder of the officer's unexpired term.

C. Secretary. A city staff member shall serve as secretary.

8-2-10: MEETINGS:

A. Regular Meetings: The commission will be scheduled to meet monthly and must meet at least once per quarter.

B. Special Meetings: Special meetings may be called by the chairperson or at the written request of a majority of the commissioners.

C. Open Meetings: All meetings must be called and held in conformance with the Iowa open meetings law.

D. Attendance:

1. In the event a commissioner has been absent for three (3) or more meetings of the commission, without being excused by the chairperson, such absence will be grounds for the commission to recommend to the city council that the position be declared vacant and a replacement appointed.

2. Attendance must be entered upon the minutes of all meetings.

3. Remote attendance is allowed; arrangements should be made with city staff in advance of the meeting.

E. Minutes: A copy of the minutes of all regular and special meetings of the commission must be filed with the city council within ten (10) working days after approval by the commission, or by the next regularly scheduled city council meeting, whichever is later.

F. Quorum: Five (5) commissioners constitute a quorum for the transaction of business. The affirmative vote of a majority of the commissioners present and voting is necessary for the adoption of any motion or resolution.

8-2-11: COMPENSATION:

Commissioners serve without compensation, provided that they may receive reimbursement for necessary travel and other expenses while on official commission business within the limits established in the city administrative policies and budget.

8-2-12: REMOVAL:

The city council may remove any commissioner for cause upon written charges and after public hearing.

8-2-13: POWERS, DUTIES, AND RESPONSIBILITIES:

The commission serves in an advisory capacity to the City Council and has the following powers, duties, and responsibilities:

A. To study the existence, character, causes, and extent of ~~inequity and~~ discrimination in public accommodations, credit transactions, employment, apprenticeship programs, on the job training programs, vocational schools, other educational institutions, and housing in the city and to attempt the elimination of such ~~inequity and~~ discrimination through education, conciliation, and recommended changes to policy and practice.

B. To form subcommittees to address specifically identified goals or needs in the community related to the elimination of ~~inequity and~~ discrimination.

C. To attend events and training opportunities both within the community and beyond.

D. To actively promote human rights to various groups in the community including governmental bodies, clubs, schools, and media.

E. To assist the City Manager, upon request, in the recruitment and selection of staff.

F. To work with the staff appointed by the City Manager to:

1. Review and provide feedback to city staff on the annual report prepared for transmission to the Mayor and City Council describing the work performed by the staff and the commission;

2. Discuss, develop, and submit budget requests in furtherance of the objectives and goals of the Commission and Department;

3. Review at the regular meetings intake and complaint data.

4. As needed, prepare for public hearings by attending training on the procedures outlined in the Administrative Rules for conducting a hearing.

G. To make recommendations to the City Council concerning ~~advancing equity, promoting inclusion, the promotion and advancement of respect and belonging in the community~~ and addressing discrimination in order to improve quality of life, and livability ~~and equity~~ for all residents, including the adjustment or adoption of regulations consistent with and necessary for the civil rights enforcement provisions of this Title.

H. To cooperate, within the limits of any appropriations made for its operation, with other agencies or organizations, both public and private, whose purposes are consistent with those of this chapter, in the planning and conducting of programs designed to advance ~~equity-respect and belonging or and~~ eliminate discrimination ~~or cultural~~ and ~~intergroup-community~~ tensions.

I. To receive, administer, dispense, and account for any restricted funds that may be donated to the commission and any grants that may be awarded the commission for

furthering the purposes of this title. No disbursements will be made of any restricted funds without authority from the City Council.

J. On occasion, and pursuant to this Title, the adopted Administrative Rules, the City contract with the Iowa Civil Rights Commission, and the Iowa Code, hold hearings upon a complaint made against a covered person or entity alleging a violation of the protections afforded by this Title for which conciliation efforts have failed to resolve the complaint.

8-2-14: RECORDS TO BE PUBLIC; EXCEPTIONS:

All records of the commission are public except charges, complaints, reports of investigations, statements, and other documents or records obtained in investigation of any charges.

8-2-15: CONFIDENTIALITY OF COMPLAINTS AND INVESTIGATORY MATERIALS:

No member of the commission will disclose the filing of a charge, the information gathered during the investigation, or the endeavors to eliminate such discriminatory or unfair practice by conference, conciliation, or persuasion unless such disclosure is made in connection with the conduct of such investigation or after the commission has held a public hearing upon a complaint filed in connection with such charge. This section does not prevent any complainant, witness, or other person from publicizing the filing of a charge or complaint or the matter therein complained of.

8-2-16: SUBPOENAS:

The staff assigned to the commission may issue subpoenas and order discovery in aid of investigations under this title pursuant to the Administrative Rules. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply for county attorney subpoenas.

CHAPTER 3: UNFAIR AND DISCRIMINATORY PRACTICES

8-3-1: GENERALLY:

A. Aiding Or Abetting: It shall be an unfair or discriminatory practice for:

1. Any person to intentionally aid, abet, compel, or coerce another person to engage in any of the practices declared unfair or discriminatory by this title.
2. Any person to discriminate against another person in any of the rights protected against discrimination on the basis of race, creed, color, sex, national origin, familial

status, religion, age, disability, marital status, sexual orientation, or gender identity by this chapter because such person has lawfully opposed any practice forbidden under this chapter, obeys the provisions of this chapter, or has filed a complaint, testified, or assisted in any proceeding under this title.

3. Any person to discriminate against another person because of the person's relationship or association with a person protected under this title.

B. Sex And Age Discrimination Provisions Not Applicable To Retirement Plans; Exception: The provisions of this title relating to discrimination because of sex or age shall not be construed to apply to any retirement plan or benefit system of any employer unless such plan or system is a mere subterfuge adopted for the purposes of evading the provisions of this title.

1. However, a retirement plan or benefit system shall not require the involuntary retirement of a person because of that person's age.

2. A health insurance program provided by an employer may exclude coverage of abortion, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.

3. An employee welfare plan may provide life, disability, or health insurance benefits which vary by age based on actuarial differences if the employer contributes equally for all the participating employees or may provide for employer contributions differing by age if the benefits for all the participating employees do not vary by age.

C. Sexual Harassment Victim Protection: Evidence concerning the past sexual behavior of an alleged victim of sexual harassment shall not be admissible in any proceeding before the human rights commission.

8-3-2: ACCOMMODATIONS OR SERVICES:

A. Prohibited Practices: It shall be an unfair or discriminatory practice for any owner, lessee, sublessee, proprietor, manager, or superintendent of any public accommodation or any agent or employee thereof:

1. To refuse or deny to any person because of race, creed, color, sex, age, national origin, religion, sexual orientation, or gender identity the accommodations, advantages, facilities, services, or privileges thereof, or otherwise to discriminate against any person because of race, creed, color, sex, age, national origin, religion, sexual orientation, or gender identity in the furnishing of such accommodations, advantages/facilities, services, or privileges.

2. To directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons of any particular race, creed, color, sex, age, national origin, religion, sexual orientation, or gender identity is unwelcome, objectionable, not acceptable, or not solicited.

B. Exemptions: This section shall not apply to:

1. Any bona fide religious institution with respect to any qualifications the institution may impose based on religion when such qualifications are related to a bona fide religious purpose.
2. The rental or leasing to transient individuals of less than four (4) rooms within a single housing accommodation if the occupant or owner or members of the owner's or occupant's family reside therein.
3. Discounts for services or accommodations based upon age.

8-3-3: EMPLOYMENT PRACTICES:

A. Prohibited Practices: It shall be an unfair or discriminatory practice for any:

1. Person to refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the race, creed, color, sex, age, national origin, religion, sexual orientation, or gender identity of such applicant or employee, unless based upon the nature of the occupation.
2. Labor organizations or the employees, agents, or members thereof to refuse to admit to membership any applicant, to expel any member, or to otherwise discriminate against any applicant for membership or any member in the privileges, rights, or benefits of such membership because of the race, creed, color, sex, age, national origin, religion, sexual orientation, or gender identity of such applicant or member.
3. Employer, employment agency, labor organization, or the employees, agents, or members thereof, to directly or indirectly advertise or in any other manner indicate or publicize that individuals of any particular race, creed, color, sex, age, national origin, religion, sexual orientation, or gender identity are unwelcome, objectionable, not acceptable, or not solicited for employment or membership, unless based upon the nature of the occupation.

B. Exemptions:

1. The prohibition by this section of discrimination based on sexual orientation shall not apply to any bona fide religious institution with respect to any qualifications for employment by such institution.
2. This section shall not apply to:
 - a. Any employer who regularly employs less than four (4) individuals. For purposes of this subsection, the owners, owners' spouses, and children shall not be counted as employees.
 - b. The employment of individuals for work within the home of the employer if the employer or members of the employer's family reside therein during such employment.

c. The employment of individuals to render personal service to the person of the employer or members of the employer's family.

d. Any bona fide religious institution or its educational association, corporation, or society with respect to any qualifications for employment based on religion when such qualifications are related to a bona fide religious purpose. A religious qualification for instructional, personnel, or administrative officer serving in a supervisory capacity of a bona fide religious educational facility or religious institution shall be presumed to be a bona fide occupational qualification.

e. Discrimination on the basis of age if the person subject to the discrimination is under the age of eighteen (18) years, unless that person is considered by law to be an adult.

f. A State or Federal program designed to benefit a specific age classification which serves a bona fide public purpose.

8-3-4: CREDIT:

It shall be an unfair or discriminatory practice for any:

A. Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds and current situations because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, sexual orientation, familial status, or gender identity.

B. Person authorized or licensed to do business in this State pursuant to chapters 524, 533, 534, 536, or 536A of the Code of Iowa to refuse to loan or extend to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, sexual orientation, familial status, or gender identity.

C. Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability, sex, sexual orientation, familial status, or gender identity. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or physical disability of the consumer shall not be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by the Code of Iowa or United States Code.

D. The provisions in this section shall not be construed by negative implications or otherwise to narrow or restrict any other provisions of this title.

8-3-5: EDUCATION:

A. Prohibited Practices; Exceptions:

1. It is an unfair or discriminatory practice for any educational institution to discriminate on the basis of race, creed, color, sex, national origin, religion, disability, sexual orientation, or gender identity in any program or activity. Such discriminatory practices shall include, but not be limited to, the following practices:

a. Exclusion of a person or persons from participation in, denial of the benefits of, or subject to discrimination in any academic, research, occupational training, or other program or activity except athletic programs.

b. Denial of comparable opportunity in intramural and interscholastic athletic programs.

c. Discrimination among persons in employment and the conditions of employment.

d. On the basis of sex, the application of any rule concerning the actual or potential parental, family, or marital status of a person or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions dependent upon the physician's diagnosis and certification.

2. For the purposes of this section, "educational institution" includes any preschool, elementary, secondary, or community college, area education agency, postsecondary college or university, and their governing boards. This section does not prohibit an educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided. Nothing in this subsection shall be construed as prohibiting any bona fide religious institution from imposing qualifications based on religion when such qualifications are related to a bona fide religious purpose or any institution from admitting students of only one sex.

B. Examinations And Courses: Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

ARTICLE A. DISABILITY DISCRIMINATION

8-3A-1: EMPLOYMENT PROHIBITED PRACTICES:

A. General Rule: No person shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

B. Construction: As used in subsection A of this section, the term "discriminate against an individual on the basis of disability" includes:

1. Limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee.

2. Participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title. Such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs.

3. Utilizing standards, criteria, or methods of administration:

a. That have the effect of discrimination on the basis of disability.

b. That perpetuate the discrimination of others who are subject to common administrative control.

4. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association.

5. Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity, or denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant.

6. Using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard test or other selection criteria, as used by the covered entity, is shown to be job related for the position in question and is consistent with business necessity.

7. Failing to select and administer tests concerning employment in the most effective manner to ensure that when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant, except where such skills are the factors that the test purports to measure.

8. Soliciting or requiring as a condition of employment of any employee or prospective employee a test for the presence of the antibody to the human immunodeficiency virus or affecting the terms, conditions, or privileges of employment or terminating the employment of any employee solely as a result of the employee obtaining a test for the presence of the antibody to the human immunodeficiency virus. An

agreement between an employer, employment agency, labor organization, or their employees, agents, or members and an employee or prospective employee concerning employment, pay, or benefits to an employee or prospective employee in return for taking a test for the presence of the antibody to the human immunodeficiency virus is prohibited. The prohibitions of this subsection do not apply if the state epidemiologist determines and the state director of public health declares through the utilization of guidelines established by the center for disease control of the United States department of health and human services that a person with a condition related to acquired immune deficiency syndrome poses a significant risk of transmission of the human immunodeficiency virus to other persons in a specific occupation.

C. Medical Examinations And Inquiries:

1. In General: The prohibition against discrimination as referred to in subsection A of this section shall include medical examinations and inquiries.

2. Preemployment:

a. Prohibited Examination Or Inquiry: Except as provided in subsection C3 this section, a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

b. Acceptable Inquiry: A covered entity may make preemployment inquiries into the ability of an applicant to perform job related functions.

3. Employment Entrance Examination: A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant and may condition an offer of employment on the results of such examination, if:

a. All entering employees are subjected to such an examination regardless of disability.

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

(1) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

(2) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

(3) Government officials investigating compliance with this chapter shall be provided relevant information on request.

c. The results of such examination are used only in accordance with this chapter.

4. Examination And Inquiry:

a. **Prohibited Examinations And Inquiries:** A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job related and consistent with business necessity.

b. **Acceptable Examinations And Inquiries:** A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at the work site. A covered entity may make inquiries into the ability of an employee to perform job related functions.

c. **Requirement:** Information obtained under subsection C4b of this section regarding the medical condition or history of any employee is subject to the requirements of subsections C3b and C3c of this section.

8-3A-2: DEFENSES, EXEMPTIONS AND EXCLUSIONS:

A. Defenses:

1. **In General:** It may be a defense to a charge of discrimination under this article that an alleged application of qualification standards, tests, or selection criteria that screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

2. **Qualification Standards:** The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

3. **Qualification Standards And Tests Related To Uncorrected Vision:** Notwithstanding the provisions under the definition of "disability" in section 8-1-1 of this title, a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job related and consistent with business necessity.

4. **Reasonable Accommodation And Good Faith Effort:** In cases where a discriminatory practice involves the provision of a reasonable accommodation pursuant to this subsection, actual damages other than damages for back pay may not be awarded under this title where the covered entity proves, by a preponderance of the evidence, good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

5. **List Of Infectious And Communicable Diseases:**

a. Applications: In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food that is included on the list developed by the secretary of health and human services under 42 USC 12113(d) and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

b. Construction: Nothing in this article shall be construed to preempt, modify, or amend any local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the secretary of health and human services.

B. Exemptions: This article shall not apply to:

1. Any employer who regularly employs less than four (4) individuals. For purposes of this subsection, the owner(s), the owner(s)' spouse(s), and children shall not be counted as employees.

2. The employment of individuals for work within the home of the employer if the employer or members of the employer's family reside therein during such employment.

3. The employment of individuals to render personal service to the person of the employer or members of the employer's family.

4. An employer's qualifications for a job may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace. (Ord. 18-09, 4-6-2009)

C. Exclusions: For purposes of the definition of "disability" in section 8-1-1 of this title, the following are not impairments and as such are not disabilities under this article:

1. Homosexuality, bisexuality, transvestism, transsexualism, and gender identity disorders not resulting from physical impairments;

2. Pedophilia, exhibitionism, voyeurism, or other sexual behavior disorders;

3. Compulsive gambling, kleptomania, or pyromania; or

4. Psychoactive substances use disorders resulting from current illegal use of drugs.

8-3A-3: CONSTRUCTION:

A. Insurance:

1. This title shall not be construed to prohibit or restrict:

a. An insurer, hospital, or medical service company, health maintenance organization, or any agent or entity that administers benefit plans or similar organizations

from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with other laws of this state.

b. A person or organization covered by this title from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with other laws of this state.

c. A person or organization covered by this title from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that is subject to the laws of this state that regulate insurance.

2. Subsection A1 of this section shall not be used as subterfuge to evade the purposes of this title.

B. Accommodations And Services: Nothing in this title shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

C. Smoking: Nothing in this article shall be construed to preclude the prohibition of or the imposition of restrictions on smoking in places of employment or in public accommodations.

8-3A-4: ILLEGAL USE OF DRUGS AND ALCOHOL:

A. Qualified Individual With A Disability: For purposes of this article, a qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

B. Rules Of Construction: Nothing in subsection A of this section shall be construed to exclude as a qualified individual with a disability an individual who:

1. Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use.

2. Is participating in a supervised rehabilitation program and is no longer engaging in such use.

3. Is erroneously regarded as engaging in such use, but is not engaging in such use; except that it shall not be a violation of this title for a covered entity to adopt or administer reasonable policies or procedures including, but not limited to, drug testing designed to ensure that an individual described in subsection B1 or B2 of this section is no longer engaging in the illegal use of drugs. However, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

C. Authority Of Covered Entity: A covered entity:

1. May prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees.

2. May require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace.

3. May hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee.

D. Drug Testing:

1. In General: For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

2. Construction: Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

E. Governmental Regulations: Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Iowa department of transportation or any other state or federal agency of authority to:

1. Test employees of such entities in, and applicants for, positions involving safety sensitive duties for the illegal use of drugs and for on duty impairment by alcohol.

2. Remove such persons who test positive for illegal use of drugs and on duty impairment by alcohol pursuant to subsection E1 of this section from safety sensitive duties in implementing subsection C of this section.

8-3A-5: PUBLIC ACCOMMODATIONS; PROHIBITED PRACTICES:

A. It shall be an unfair or discriminatory practice for any person on the basis of disability to refuse or deny full and equal enjoyment of the goods, services, facilities, privileges, advantages, or other public accommodations.

B. It shall be an unfair or discriminatory practice not to afford an individual or class of individuals on the basis of disability the full and equal enjoyment of a facility in an integrated setting appropriate to the needs of the individual.

C. It shall be an unfair or discriminatory practice for any person to discriminate against an individual or class of individuals in any of the following:

1. It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other

individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, accommodation, or other opportunity that is as effective as that provided to others.

2. Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

3. A public accommodation shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration:

a. That have the effect of discriminating on the basis of disability.

b. That perpetuate the discrimination of others who are subject to common administrative control.

4. It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to a person because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

D. For purposes of subsection A of this section, discrimination includes:

1. The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered.

2. A failure to make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.

3. A failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the goods, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden.

4. A failure to remove architectural barriers and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of hydraulic or other lift), where such removal is readily achievable.

5. Where an entity can demonstrate that the removal of a barrier under subsection D4 this section is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

E. Nothing in this section shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages, and accommodations of such entity where such individual poses a direct threat to the health or safety of others.

8-3A-6: NEW CONSTRUCTION AND ALTERATION OF PUBLIC ACCOMMODATIONS:

A. It shall be an unfair or discriminatory practice for any person on the basis of disability to:

1. Fail to design and construct all public accommodations built after September 1, 1996, so that they are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet such requirements.

2. With respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope.

B. Subsections A1 and A2 of this section shall not be construed to require the installation of an elevator for facilities that are less than three (3) stories or have less than three thousand (3,000) square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a healthcare provider.

CHAPTER 4: ENFORCEMENT OF CIVIL RIGHTS

8-4-1: FILING COMPLAINTS:

A. Filing Of Verified, Written Complaint: All persons claiming to be aggrieved by a discriminatory or unfair practice within this city may sign and file with the commission a

verified, written complaint in triplicate which shall state the name and address of the person alleged to have committed the discriminatory or unfair practice of which complained, shall set forth the particulars thereof, and shall contain such other information as may be required by the commission. The commission, a commissioner, or the city attorney's office may in like manner sign and file such complaint.

B. Protection Of Person's Identity: A person who has tested positive for human immunodeficiency virus or who has a diagnosis of acquired immune deficiency syndrome or a person who is perceived to have human immunodeficiency virus or acquired immune deficiency may file a disability charge utilizing "John Doe", "Jane Doe", or a coded number to protect the person's identity. The name of the charging party shall be disclosed to the respondent. It shall be a discriminatory practice for any person to disclose the name of the coded person or information that would lead to that person's identity.

8-4-2: AMENDMENTS OF COMPLAINTS:

The commission or the complainant shall have the power to reasonably and fairly amend any complaint and the respondent shall have like power to amend such respondent's answer at any time prior to hearing.

8-4-3: TIME LIMITATION FOR FILING COMPLAINT:

A. A claim under this title shall not be maintained unless a complaint is filed with the commission within three hundred (300) days after the alleged discriminatory or unfair practice occurred.

B. For purposes of this section, an unlawful employment practice occurs, with respect to discrimination in compensation in violation of this title, when a discriminatory compensation decision or other practice is adopted, when an individual becomes subject to a discriminatory compensation decision or other practice, or when an individual is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.

8-4-4: COMMISSION STAFF PROCEEDINGS ON COMPLAINTS:

A. Notice To Respondent: After the filing of a verified complaint, a true copy shall be served within twenty (20) days by personal service, certified mail, or overnight mail with tracking to ensure service, on the person against whom the complaint is filed.

B. Screening: The director shall review each complaint and is authorized to administratively close a case when the city manager finds any of the following:

1. Lack of jurisdiction.

2. Minimal impact on civil rights in the community.
3. Further processing is not warranted.

C. Investigation By Staff; Probable Cause Determination By Administrative Law Judge: An authorized member of the commission shall make a prompt investigation and shall issue a recommendation to an administrative law judge under the jurisdiction of the commission, who shall then issue a determination of probable cause or no probable cause.

1. For purposes of this chapter, an administrative law judge issuing a determination of probable cause or no probable cause under this section shall be exempt from section 17A.17 of the code of Iowa.

2. If the administrative law judge concurs with the investigating official that probable cause exists regarding the allegations of the complaint, the staff of the commission shall promptly endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion. If the administrative law judge finds that no probable cause exists, the administrative law judge shall issue a final order dismissing the complaint and the commission shall promptly mail a copy to the complainant and to the respondent by certified mail.

A finding of probable cause shall not be introduced into evidence in an action brought under section 8-4-7 of this chapter.

D. Conciliation Conference And Persuasion Procedures: The commission staff must endeavor to eliminate the discriminatory or unfair practice by conciliation conference and persuasion for a period of thirty (30) days following the initial conciliation meeting between the respondent and the commission staff after a finding of probable cause. After the expiration of thirty (30) days, the city manager may order the conciliation conference and persuasion procedure provided in this section to be bypassed when the city manager determines the procedure is unworkable by reason of past patterns and practices of the respondent or a statement by the respondent that the respondent is unwilling to continue with the conciliation. Upon the bypassing of conciliation, the city manager shall state in writing the reasons for bypassing.

8-4-5: COMMISSION PROCEEDINGS UPON FAILURE TO REACH SETTLEMENT BY CONCILIATION:

A. Notice Of Hearing: When the city manager is satisfied that further endeavor to settle a complaint by conference, conciliation, and persuasion is unworkable and should be bypassed and the thirty (30) day period provided for in section 8-4-4 of this chapter has expired without agreement, the city manager, with the approval of a commissioner, shall issue and cause to be served a written notice:

1. Specifying the charges in the complaint as they may have been amended and the reasons for bypassing further conciliation.

2. Requiring the respondent to answer the charges of the complaint at a hearing before the commission, a commissioner, or a person designated by the commission to conduct the hearing, hereafter referred to as the administrative law judge.

3. Specifying a time and place.

B. Participation Of Commission Personnel: The case in support of such complaint shall be presented at the hearing by one of the commission's attorneys or agents. The investigating official shall not participate in the hearing except as a witness, nor shall the official participate in the deliberations of the commission in such case.

C. Conduct Of Hearing: The hearing shall be conducted in accordance with the provisions of chapter 17A of the code of Iowa for contested cases. The burden of proof in such a hearing shall be on the commission.

D. Proposed Order By Hearing Panel Or Judge: In the case of a proposed order by a hearing panel or administrative law judge, the commission may review such proposed order within sixty (60) days. If the commission fails to review such proposed order within sixty (60) days, the proposed order shall become the final order of the commission.

8-4-6: COMMISSION ORDERS:

A. Upon Finding Of Discriminatory, Unfair Practice: If, upon taking into consideration all of the evidence at a hearing, the commission determines that the respondent has engaged in a discriminatory or unfair practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take the necessary remedial action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, and to any other public officers and persons as the commission deems proper.

1. Remedial Actions: For the purposes of this subsection and pursuant to the provisions of this chapter, remedial action includes, but is not limited to, the following:

a. Hiring, reinstatement, or upgrading of employees with or without pay. Interim earned income and unemployment compensation shall operate to reduce the pay otherwise allowable.

b. Admission or restoration of individuals to a labor organization, admission to or participation in a guidance program, apprenticeship training program, on the job training program, or other occupational training or retraining program with the utilization of objective criteria in the admission of individuals to such programs.

c. Admission of individuals to a public accommodation or an education institution.

d. Sale, exchange, lease, rental, assignment, or sublease of real property to an individual.

e. Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent denied to the complainant because of the discriminatory or unfair practice.

f. Reporting as to the manner of compliance.

g. Posting notices in conspicuous places in the respondent's place of business in form prescribed by the commission and inclusion of notices in advertising material.

h. Payment to the complainant of damages for an injury caused by the discriminatory or unfair practice, which damages shall include, but are not limited to, damages and reasonable attorney fees.

i. Reimbursement to the commission for contested case costs.

2. Requirements To Cease And Desist Certifications To Licensing And Contracting Agencies: In addition to the remedies provided in the preceding provisions of this section, the commission may issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and may take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter as follows:

a. In the case of a respondent operating by virtue of a license issued by the state or a political subdivision or agency, if the commission, upon notice to the respondent with an opportunity to be heard, determines that the respondent has engaged in a discriminatory or unfair practice and that the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of such officer's or executive agent's employment, the commission shall so certify to the licensing agency. Unless the commission finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the licensing agency.

b. In the case of a respondent who is found by the commission to have engaged in a discriminatory or unfair practice in the course of performing under a contract or subcontract with the state or political subdivision or agency, if the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of such officer's or executive agent's employment, the commission shall so certify to the contracting agency. Unless the commission's finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the contracting agency.

B. Upon Hearing Finding Of No Discriminatory, Unfair Practice: If, upon taking into consideration all of the evidence at a hearing, the commission finds that a respondent has not engaged in any such discriminatory or unfair practice, the commission shall issue an order denying relief and stating the findings of fact and conclusions of the commission and shall cause a copy of the order dismissing the complaint to be served by regular mail on the complainant and the respondent.

C. Upon Conciliation Agreements:

1. The terms of a conciliation agreement reached with the respondent may require the respondent to refrain in the future from committing discriminatory or unfair practices of the type stated in the agreement, to take remedial action as in the judgment of the commission will carry out the purposes of this code, and to consent to the entry in an appropriate district court of a consent decree embodying the terms of the conciliation agreement. Violation of such a consent decree may be punished by contempt by the court in which it is filed upon a showing by the commission of the violation at any time within six (6) months of its occurrence. In all cases where a conciliation agreement is entered into, the commission shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent, and such other persons as the commission deems proper.

2. At any time, in its discretion, the commission may investigate whether the terms of the agreement are being complied with by the respondent. Upon a finding that the terms of the conciliation agreement are not being complied with by the respondent, the commission shall take appropriate action to assure compliance.

8-4-7: RELEASE FROM ADMINISTRATIVE PROCESS; ALTERNATIVE JUDICIAL PROCEEDINGS UPON COMPLAINTS:

A. Administrative Release: A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek an administrative relief by filing a complaint with the commission in accordance with section 8-4-1 of this chapter. A complainant, after the proper filing of a complaint with the commission, may subsequently commence an action for relief in the district court if all of the following conditions have been satisfied:

1. The complainant has timely filed the complaint with the commission as provided in section 8-4-3 of this chapter.

2. The complaint has been on file with the commission at least sixty (60) days and the commission has issued a release to the complainant pursuant to this section.

3. The complainant has requested an administrative release from the Iowa civil rights commission via the Dubuque human rights commission.

4. The complainant has received an administrative release from the Iowa civil rights commission.

B. Screening Of Complaint: It is the legislative intent of this section that every complaint be at least preliminarily screened during the first sixty (60) days. This subsection does not authorize administrative closures if an investigation is warranted.

8-4-8: PROVISIONAL REMEDIES:

If, any time after the filing of a complaint, it shall appear to the commission that there is reason to believe that the party charged has violated this chapter and there is reason to believe that the person charged is about to commit acts which would make impossible

compliance with an order of the commission to alleviate the grievance, or it appears that a complainant may suffer irreparable injury as a result of alleged violation, the commission's attorney may seek a temporary injunction restraining the party charged from doing these acts pending completion of the proceedings under this chapter. A temporary injunction may be issued only after the respondent has been notified and afforded the opportunity to be heard, except that an ex parte temporary injunction may be issued when the complainant alleges housing discrimination.

8-4-9: JUDICIAL REVIEW; ENFORCEMENT ACTIONS:

A. Filing Petition For Judicial Review: Judicial review of the actions of the commission may be sought in accordance with the terms of the Iowa administrative procedure act [1](#) . Notwithstanding the terms of such act, petition for judicial review may be filed in the district court in which an enforcement proceeding under subsection B of this section may be brought. For purposes of the time limit for filing a petition for judicial review under the Iowa administrative procedure act, the issuance of a final decision of the commission under this chapter occurs on the date notice of the decision is mailed by regular mail to the parties. Notwithstanding the time limit provided in section 17A.19, subsection 3 of the code of Iowa, a petition for judicial review of no probable cause decisions and other final agency actions which are not of general applicability must be filed within thirty (30) days of the issuance of the final agency action.

B. Order For Enforcement: The commission may obtain an order for the enforcement of commission orders in a proceeding as provided in this section. Such an enforcement proceeding shall be brought in the district court of the district in the county in which the alleged discriminatory or unfair practice which is the subject of the commission's order was committed, or in which any respondent required in the order to cease or desist from a discriminatory or unfair practice or take other affirmative action, resides or transacts business.

C. Transcript Of Record Of Hearing Filed With Court: Such an enforcement proceeding shall be initiated by the filing of a petition in such court and the service of a copy thereof upon the respondent. Thereupon, the commission shall file with the court a transcript of the record of the hearing before it. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript an order enforcing, modifying, and enforcing as so modified, or setting aside the order of the commission, in whole or in part.

D. Consideration Of Objection: An objection that has not been urged before the commission shall not be considered by the court in an enforcement proceeding unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

E. Remission Of Case To Commission: Any party to the enforcement proceeding may move the court to remit the case to the commission in the interests of justice for the purposes of adducing additional specified and material evidence and seeking findings

thereof, provided such party shall show reasonable grounds for the failure to adduce such evidence before the commission.

F. **Determination Under State Statute:** In the enforcement proceeding, the court shall determine its order on the same basis as it would in a proceeding reviewing commission action under section 17A.19 of the code of Iowa.

G. **Availability Of Testimony:** The commission's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the commission's orders.

H. **Commission Attorney Appearance In Court:** The commission may appear in court by its own attorney.

I. **Expeditious Hearing On Petitions:** Petitions filed under this section shall be heard expeditiously and determined upon the transcript filed without requirement for hearing.

J. **Failure To Obtain Judicial Review:** If no proceeding to obtain judicial review is instituted within thirty (30) days from the service of an order of the commission under section 8-4-6 of this chapter, the commission may obtain an order of the court for the enforcement of such order upon showing that respondent is subject to the jurisdiction of the commission and resides or transacts business within the county in which the petition for enforcement is brought.

Notes

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1. IC ch. 17A.

8-4-10: RULE OF CONSTRUCTION:

This chapter shall be construed liberally to effectuate its purpose.

CHAPTER 5: FAIR HOUSING

8-5-1: DEFINITIONS:

As used in this chapter:

AGGRIEVED PERSON: Any person who:

A. Claims to have been injured by discriminatory housing practice.

B. Believes that such person will be injured by a discriminatory housing practice that is about to occur.

COMPLAINANT: The person who files a complaint under section 8-5-6 of this chapter.

CONCILIATION: The attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the commission.

CONCILIATION AGREEMENT: A written agreement setting forth the resolution of the issues in conciliation.

DISCRIMINATORY HOUSING PRACTICE: An act that is unlawful under section 8-5-2, 8-5-4, or 8-5-5 of this chapter.

DWELLING: Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

FAMILY: A single individual.

PERSON: An individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint stock company, trust, unincorporated organizations, trustees, trustee in cases under title 11 of the United States code, receiver, fiduciary, or any other legal entity.

PREVAILING PARTY: The same as such term has in section 722 of the revised statutes of the United States (42 USC 1988).

RESPONDENT: A. The person or other entity accused in a complaint of an unfair housing practice.

B. Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under subsection 8-5-6A of this chapter.

SECRETARY: The U.S. secretary of housing and urban development.

STATE: The state of Iowa and any of its political subdivisions.

TO RENT: To lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant.

8-5-2: PROHIBITIONS:

It shall be unlawful:

A. To 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, a dwelling to any person because of race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity.

B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity.

C. To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity, or an intention to make any such preference, limitation, or discrimination.

D. To represent to any person because of race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or disabled persons of a particular race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity.

F. 1. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

a. That buyer or renter.

b. A person residing in or intending to reside in that dwelling after it is ~~so~~-sold, rented, or made available.

c. Any person associated with that buyer or renter.

2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection with such dwelling, because of a disability of:

a. That person.

b. A person residing in or intending to reside in that dwelling after it is ~~so~~-sold, rented, or made available.

c. Any person associated with that person.

3. For purposes of this subsection, discrimination includes:

a. A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter, agreeing to restore the interior of the premises to the condition that existed before 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 such person equal opportunity to use and enjoy a dwelling.

c. In connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:

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

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

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

(A) An accessible route into and through the dwelling.

(B) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

(C) Reinforcements in bathroom walls to allow later installation of grab bars.

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

4. Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for physically disabled persons (commonly cited as ANSI A117.1) suffices to satisfy the requirements of subsection F3c(3) of this section.

5. As used in this subsection, the term "covered multi-family dwellings" means:

a. Buildings consisting of four (4) or more units if such buildings have one or more elevators.

b. Ground floor units in other buildings consisting of four (4) or more units.

6. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

8-5-3: EXEMPTIONS:

A. Exemptions Enumerated: Nothing in section 8-5-2 of this chapter, other than subsection 8-5-2C of this chapter, shall apply to:

1. Any single-family house sold or rented by an owner; provided, that:

a. The private individual owner does not own more than three (3) such single-family houses at any one time.

b. In the sale of any single-family house, the private individual owner does not reside in, nor is the most recent resident of such house prior to such sale; the exemption granted by this subsection shall apply to only one such sale within a twenty four (24) month period.

c. The bona fide private individual owner does not own any interest in, nor is there owned or reserved on the owner's behalf, under express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at one time.

d. There is no utilization in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person.

e. There is no publication, posting, or mailing, after notice, of any advertisement or written notice in violation of subsection 8-5-2C of this chapter. Nothing in this subsection prohibits the utilization of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

B. Selling Or Renting Dwellings: For the purposes of subsection A of this section, a person shall be deemed to be in the business of selling or renting dwellings if:

1. The person has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein.

2. The person has, within the preceding twelve (12) months, participated as agent, other than in the sale of the person's own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein.

3. The person is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

C. Religious Or Nonprofit Organizations: Nothing in this chapter shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity. Nor shall anything in this chapter prohibit

a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other occupancy of such lodging to its members or from giving preference to its members.

D. Applicability Of Housing Regulations; Housing For Older Persons:

1. Nothing in this chapter limits the applicability of title 14, chapter 1 of this code regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this chapter regarding familial status or age apply with respect to housing for older persons.

2. As used in this section, "housing for older persons" means housing:

a. Provided under any state or federal program that the secretary determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program.

b. Intended for, and solely occupied by, persons sixty two (62) years of age or older.

c. Intended and operated for occupancy by at least one person fifty five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the commission shall develop regulations which require at least the following factors:

(1) That at least eighty percent (80%) of the units are occupied by at least one person fifty five (55) years of age or older per unit.

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

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

a. Persons residing in such housing as of the date of enactment of this chapter who do not meet the age requirements of subsection D2b or D2c of this section; provided, that new occupants of such housing meet the age requirements of subsection D2b or D2c of this section.

b. Unoccupied units; provided, that such units are reserved for occupancy by persons who meet the age requirements of subsection D2b or D2c of this section.

4. Nothing in this chapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in the controlled substances act (21 USC 802) or a violation of the controlled substances chapter of the Iowa Code [1](#) .

Notes

8-5-4: DISCRIMINATION IN RESIDENTIAL REAL ESTATE RELATED TRANSACTIONS:

A. In General: It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity.

B. Definition: As used in this section, the term "residential real estate related transaction" means any of the following:

1. The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing, or maintaining a dwelling.
 - b. Secured by residential real estate.
2. The selling, brokering, or appraising of residential real property.

C. Appraisal Exemption: Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity.

8-5-5: DISCRIMINATION IN PROVISION OF BROKERAGE SERVICES:

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

8-5-6: ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS:

A. Complaints And Answers:

1. An aggrieved person may, not later than three hundred (300) days after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the commission alleging such discriminatory housing practice. The commission, on the commission's own initiative, a commissioner, or the city attorney's office may also file such a complaint.

2. Such complaints shall be in writing and shall contain such information and be in such form as the commission requires.

3. The commission may also investigate housing practices to determine whether a complaint should be brought under this section.

4. Upon the filing of such a complaint:

a. The commission shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this chapter;

b. The commission shall, not later than ten (10) days after such filing or the identification of an additional respondent under subsection A7 of this section, serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this chapter, together with a copy of the original complaint;

c. Each respondent may file, not later than ten (10) days after receipt of notice from the commission, an answer to such complaint; and

d. The commission shall make an investigation of the alleged discriminatory housing practice and complete such investigation within one hundred (100) days after the filing of the complaint unless it is impracticable to do so.

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

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

7. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice. Such notice, in addition to meeting the requirements of subsection A of this section, shall explain the basis for the commission's belief that the person to whom the notice is addressed is properly joined as a respondent.

B. Investigative Report And Conciliation:

1. Beginning with the filing of a complaint, the commission shall, to the extent feasible, engage in conciliation with respect to such complaint.

2. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the commission.

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

4. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this chapter.

5. a. At the end of each investigation under this section, the commission shall prepare a final investigative report containing:

(1) The names and dates of contacts with witnesses.

(2) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent.

(3) A summary description of other pertinent records.

(4) A summary of witness statements.

(5) Answers to interrogatories.

b. A final report under this subsection may be amended if additional evidence is later discovered.

C. Failure To Comply With Conciliation Agreement: Whenever the commission has probable cause to believe that a respondent has breached a conciliation agreement, the commission shall refer the matter to the city attorney's office with a recommendation that a civil action be filed for the enforcement of such agreement.

D. Prohibitions And Requirements With Respect To Disclosure Of Information:

1. Nothing said or done in the course of conciliation under this chapter may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned.

2. Notwithstanding subsection D1 of this section, the commission shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the commission's investigation, information derived from an investigation and any final investigative report relating to that investigation.

E. Prompt Judicial Action: If the commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this chapter, the commission may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such authorization, the city attorney's office shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Iowa rules of civil procedure. The commencement of a civil action under this subsection does not affect the initiation of continuation of administrative proceedings under this chapter.

8-5-7: PROBABLE CAUSE DETERMINATION AND EFFECT:

A. Issuance Of Determination: If the commission determines that probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall immediately issue a determination unless the commission determines that the legality of a zoning or land use law or ordinance is involved as provided in subsection D of this section.

B. Conditions Of Determination: A cause determination must:

1. Consist of a short and plain statement of the facts on which the commission has found probable cause to believe that a discriminatory housing or real estate practice has occurred or is about to occur.

2. Be based on the final investigative report.

3. Need not be limited to the facts or grounds alleged in the complaint.

C. Distribution Of Copies Of Determination: Not later than twenty (20) days after the commission issues a cause determination, the commission shall send a copy of the determination with information as to how to make an election under section 8-5-9 of this chapter to all of the following persons:

1. Each respondent.

2. Each aggrieved person on whose behalf the complaint was filed.

D. Land Use Issues: If the commission determines that the matter involves the legality of a state or local zoning or other land use ordinance, the commission shall not issue a determination and shall immediately refer the matter to the city attorney's office for appropriate action.

E. Dismissal Of Complaint: If the commission determines that no probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall promptly dismiss the complaint. The commission shall make public disclosure of each dismissal under this chapter.

F. Trial Or Civil Action: The commission shall not issue a determination under this subsection regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to the discriminatory housing or real estate practice.

8-5-8: SUBPOENAS; GIVING OF EVIDENCE:

A. In General: The commission may issue subpoenas and order discovery in aid of investigations and hearings under this chapter. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply for county attorney subpoenas.

B. Criminal Penalties:

1. Any person who wilfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to a subpoena or other lawful order under subsection A of this section, shall be referred to the city attorney's office or the county attorney's office for prosecution.

2. Any person who, with intent thereby to mislead another person in any proceeding under this chapter, does the following shall be referred to the city attorney's office or the county attorney's office for prosecution:

a. Makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection A of this section;

b. Wilfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents;

c. Wilfully mutilates, alters, or by any other means falsifies any documentary evidence.

8-5-9: ENFORCEMENT BY COMMISSION:

A. Election Of Judicial Determination: When a probable cause determination has been issued, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in that complaint decided in a civil action under section 8-5-12 of this chapter in lieu of a hearing under subsection F of this section. The election must be made not later than twenty (20) days after the receipt by the electing person of service under section 8-5-7 of this chapter, or, in the case of the commission, not later than twenty (20) days after such service. The person making such election shall give notice of doing so to the commission and to all other complaints and respondents to whom the complaint relates.

B. Administrative Law Judge Hearing In Absence Of Election: If an election is not made under subsection A of this section with respect to a complaint, the commission shall provide an opportunity for a hearing on the record with respect to the complaint issued under section 8-5-6 of this chapter. The commission shall delegate the conduct of a hearing under this section to an administrative law judge appointed by the commission.

C. Rights Of Parties: At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross examine witnesses, and obtain the issuance of subpoenas under section 8-5-8 of this chapter. Any aggrieved person may intervene as a party in the proceeding. The Iowa rules of evidence apply to the presentation of evidence in such hearing as they would in a civil action in the Iowa district court.

D. Expedited Discovery And Hearing:

1. Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

2. A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

E. Resolution Of Charge: Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

F. Hearings, Findings, Conclusions And Order:

1. The administrative law judge shall commence the hearing under this section no later than one hundred twenty (120) days following the probable cause determination, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within one hundred twenty (120) days after the determination, the administrative law judge shall notify the commission, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing, of the reasons for not doing so.

2. The administrative law judge shall make findings of fact and conclusions of law within sixty (60) days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding sixty (60) day period thereafter, the administrative law judge shall notify the commission, the aggrieved person on whose behalf the charge was filed and the respondent, in writing, of the reasons for not doing so.

3. If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent in an amount not to exceed those established by the federal fair housing act in section 42 USC 3612.

4. No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this chapter.

5. In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the commission shall, not later than thirty (30) days after the date of the issuance of such order or if such order is judicially reviewed, thirty (30) days after such order is in substance affirmed upon such review:

a. Send copies of the findings of fact, conclusion of law, and the order to that governmental agency.

b. Recommend to that governmental agency appropriate disciplinary action including, where appropriate, the suspension or revocation of the license of the respondent.

6. If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The commission shall make public disclosure of each such dismissal.

7. An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under a federal or state law, seeking relief with respect to that discriminatory housing practice.

8-5-10: REVIEW BY COMMISSION; SERVICE OF FINAL ORDER:

A. The commission may review any finding, conclusion, or order issued under section 8-5-9 of this chapter. Such review shall be completed not later than sixty (60) days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

B. The commission shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

8-5-11: JUDICIAL REVIEW:

A. Review Of Order: Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain review of such order by filing a petition for review not later than thirty (30) days after the order is issued in the Iowa district court pursuant to chapter 17A, code of Iowa.

B. Court Enforcement Of Administrative Order Upon Petition By Commission:

1. The commission may petition the Iowa district court in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

2. The commission shall file in court with the petition the record of the proceeding. A copy of such petition shall be forthwith transmitted by the commission to the parties to the proceeding before the administrative law judge.

C. Relief Which May Be Granted:

1. Upon the filing of a petition under section 8-5-6 of this chapter, the court may, pursuant to section 216.17 of the code of Iowa:

a. Grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper.

b. Affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings.

c. Enforce such order to the extent that such order is affirmed or modified.

2. Any party to the proceeding before the administrative law judge may intervene on appeal to the court.

3. No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

D. Court Enforcement Of Administrative Order Upon Petition Of Any Person Entitled To Relief: After a final order of the commission, any person entitled to relief under the order may petition for a decree enforcing the order in the Iowa district court in Dubuque County, Iowa.

E. Civil Action For Enforcement When Election Is Made For Such Civil Action:

1. If an election is made under subsection 8-5-7C of this chapter, the commission shall authorize, not later than thirty (30) days after the election is made, the city attorney's office to commence and maintain a civil action on behalf of the aggrieved person in the Iowa district court in and for Dubuque County seeking relief under this subsection in accordance with section 216.16A of the code of Iowa.

2. Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

3. In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 8-5-12 of this chapter. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 8-5-12 of this chapter shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

F. Attorney Fees: In any administrative proceeding brought under this section or any court proceeding arising therefrom or any civil action, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the commission, reasonable attorney fees and costs.

8-5-12: ENFORCEMENT BY PRIVATE PERSONS:

A. Civil Action:

1. An aggrieved person may commence a civil action in an appropriate United States district court or state court not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this chapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

2. The computation of such two (2) year period shall not include any time during which an administrative proceeding under this chapter was pending with respect to a complaint or charge under this chapter based upon such discriminatory housing practice. This subsection does not apply to actions arising from a breach of a conciliation agreement.

B. Conciliation Agreement Precludes Action: An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 8-5-6 of this chapter and without regard to the status of any such complaint, but if the commission or the Iowa civil rights commission has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

C. Administrative Hearing Precludes Civil Action: An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice if an administrative law judge has commenced a hearing on the record under this chapter with respect to such charge.

D. Appointment Of Attorney By Court: Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may:

1. Appoint an attorney for such person.

2. Authorize the commencement or continuation of a civil action under subsection A of this section without the payment of fees, costs, or security if in the opinion of the court such person is financially unable to bear the costs of such action.

E. Relief Which May Be Granted:

1. In a civil action under subsection A of this section, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages and, subject to subsection F of this section, may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate.

2. In a civil action under subsection A of this section, the court, in its discretion, may allow the prevailing party reasonable attorney fees and costs.

F. Effect On Certain Sales, Encumbrances And Rentals: Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the filing of a complaint or civil action under this chapter.

G. Intervention By City Attorney's Office: Upon timely application, the city attorney's office may intervene in such civil action, if the city attorney's office certifies that the case is of general public importance. Upon such intervention, the city attorney's office may obtain such relief as would be available to the city attorney's office under section 8-5-13 of this chapter in a civil action to which such section applies.

8-5-13: ENFORCEMENT BY CITY ATTORNEY'S OFFICE:

A. Probable Cause: On the request of the commission, the city attorney's office may file a civil action in the district court for appropriate relief if the commission has probable cause to believe that any of the following applies:

1. A person is engaged in a pattern or practice of resistance to the full enjoyment of any housing right granted by this chapter.

2. A person has been denied any housing right granted by this chapter and that denial raises an issue of general public importance.

B. Legal Action; Enforcement: The commission may request the city attorney's office to take appropriate legal action of a discriminatory housing practice or to enforce a conciliation agreement.

1. The city attorney's office may commence a civil action in any appropriate court for appropriate relief with respect to a discriminatory housing practice referred to the city attorney's office.

2. A civil action under this subsection may be commenced no later than the expiration of the two (2) years after the date of the occurrence of the termination of the alleged discriminatory housing practice as provided in section 216.16A of the code of Iowa.

3. The city attorney's office may commence a civil action in any appropriate court for appropriate relief with respect to breach of a conciliation agreement referred to the city attorney's office by the commission.

4. A civil action may be commenced under this subsection no later than the expiration of ninety (90) days after the referral of the alleged breach under subsection 8-5-6C of this chapter.

5. The city attorney's office, on behalf of the commission or other party at whose request a subpoena is issued under this chapter, may enforce such subpoena in

appropriate proceedings in the district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

6. Relief may be granted in civil actions under subsections A and B of this section in accordance with section 216.17A of the code of Iowa. In a civil action under subsection A or B of this section, the court:

a. May award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this chapter as is necessary to assure the full enjoyment of the rights granted by this chapter.

b. May award such other relief as the court deems appropriate, including monetary damages to the person aggrieved.

c. May, to vindicate the public interest, assess a civil penalty against the respondent:

(1) In an amount not exceeding fifty thousand dollars (\$50,000.00) for a first violation.

(2) In an amount not exceeding one hundred thousand dollars (\$100,000.00) for any subsequent violation.

C. Attorney Fees And Costs: In a civil action under this section, the court, in its discretion, may allow the prevailing party reasonable attorney fees and costs.

D. Intervention In Civil Actions: Upon timely application, any person may intervene in a civil action commenced by the city attorney's office under subsection A or B of this section, which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 8-5-12 of this chapter.

8-5-14: COOPERATION WITH STATE AND FEDERAL AGENCIES:

The commission may cooperate with state and federal agencies charged with the administration of state and federal fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, in furtherance of such cooperative efforts, the commission may enter into written agreements with such state or federal agencies.

8-5-15: INTERFERENCE, COERCION OR INTIMIDATION; ENFORCEMENT BY CIVIL ACTION:

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of such person having aided or encouraged any

other person in the exercise or enjoyment of, any right granted or protected by this chapter.

8-5-16: VIOLATIONS; BODILY INJURY; DEATH; PENALTIES:

Whoever, whether or not acting under color of law, by force or threat of force wilfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with the following described persons shall be referred to the county attorney's office for prosecution:

A. Any person because of such person's race, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity and because such person is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings.

B. Any person because such person is or has been, or in order to intimidate such person or any other person or any class of persons from:

1. Participating, without discrimination on account of race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity in the activities, services, organizations, or facilities described in subsection A of this section.

2. Affording another person or class of persons opportunity or protection so to participate.

C. Any citizen because such person is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, familial status, national origin, creed, age, disability, sexual orientation, or gender identity in any of the activities, services, organizations, or facilities described in subsection A of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.

8-5-17: DISCLAIMER OF PREEMPTIVE EFFECT:

Nothing in this chapter limits any right, procedure, or remedy available under the federal or state constitution.

Section 2. This ordinance shall take effect upon publication.

Passed, approved, and adopted this day of , 2025.

Brad M. Cavanagh, Mayor

Attest:

Adrienne Breitfelder, City Clerk

ORDINANCE NO. _____ - 25

AMENDING CITY OF DUBUQUE CODE OF ORDINANCES TITLE 8 EQUITY AND
HUMAN RIGHTS BY REPEALING TITLE 8 EQUITY AND HUMAN RIGHTS AND
ADOPTING IN LIEU THEREOF A NEW TITLE 8 HUMAN RIGHTS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
DUBUQUE, IOWA:

TITLE 8: ~~EQUITY AND~~ HUMAN RIGHTS

CHAPTER 1: DEFINITIONS; GENERAL PROVISIONS

8-1-1: DEFINITIONS:

When used in this title, the following terms shall have the meanings ascribed herein unless the context otherwise requires:

AUXILIARY AIDS AND SERVICES: A. Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

B. Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments.

C. Acquisition or modification of equipment or devices.

D. Other similar services and actions.

COMMISSION: The Dubuque ~~equity and~~ human rights commission created by chapter 2 of this title.

COURT: The Iowa district court in and for Dubuque County.

COVERED ENTITY: An employer, employment agency, labor organization, or joint labor management committee.

DIRECT THREAT: A significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

DISABILITY: With respect to an individual:

A. A physical or mental impairment that substantially limits one or more major life activities of such individual and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome related complex, or any other condition related to acquired immune deficiency syndrome. The inclusion of a condition related to a positive human immunodeficiency virus test results, in the meaning of "disability" under the provisions of this title, does not preclude the application of the provisions of this title to conditions resulting from other contagious or infectious diseases.

As described, major life activities:

1. 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, and working.

2. Also include 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.

B. A record of such an impairment.

C. Being regarded as having such an impairment, as described:

1. An individual meets the requirement of being regarded as having such an impairment if the individual establishes that he or she has 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.

2. This provision shall not apply to impairments that are transitory and minor. A "transitory impairment" is an impairment with an actual or expected duration of six (6) months or less.

D. The definition of "disability" shall be construed in accordance with the following:

1. In favor of broad coverage of individuals under this title, to the maximum extent permitted by the terms of this title.

2. "Substantially limits" shall be interpreted consistently with the findings and purposes of the ADA amendments act of 2008.

3. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

4. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

5. a. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:

(1) Medication, medical supplies, equipment, appliances, low vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies.

(2) Use of assistive technology.

(3) Reasonable accommodations or auxiliary aids or services.

(4) Learned behavioral or adaptive neurological modifications.

b. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

c. As used in this section:

(1) "Ordinary eyeglasses" or "contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error.

(2) "Low vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

DRUG: A controlled substance, as defined in the code of Iowa.

EMPLOYEE: An individual employed by an employer.

EMPLOYER: The state or any political subdivision, board, commission, department, institution, or school district thereof, and every other person employing employees within the state.

EMPLOYMENT AGENCY: Any person undertaking to procure employees or opportunities to work for any other person or any person holding such person or itself to be equipped to do so.

FAMILIAL STATUS: A. One or more individuals who have not attained the age of eighteen (18) years being domiciled with:

1. A parent or other person having legal custody of such individual or individuals.
2. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

B. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

~~GENDER IDENTITY: A gender related identity of a person, regardless of the person's assigned sex at birth.~~

LABOR ORGANIZATION: Any organization which exists for the purpose, in whole or in part, of collective bargaining, dealing with employees concerning grievances, terms, or conditions of employment, or other mutual aid or protection in connection with employment.

PERSON: An individual, partnership, association, corporation, legal representative, trustee, receiver, any other legal entity, and the state and all political subdivisions and agencies thereof.

PUBLIC ACCOMMODATION: A. Each and every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods for a fee or charge to nonmembers of any organization or association utilizing the place, establishment, or facility; provided, that any place, establishment, or facility that caters or

offers services, facilities, or goods to the nonmembers gratuitously shall be deemed a "public accommodation", if the accommodation receives any governmental support or subsidy.

B. "Public accommodation" shall not mean any bona fide private club or other place, establishment, or facility which is by its nature distinctly private, except when such distinctly private place, establishment, or facility caters or offers services, facilities, or goods to the nonmembers for a fee or charge or gratuitously, it shall be deemed a "public accommodation" during such period.

C. "Public accommodation" includes each state and local government unit or tax supported district of whatever kind, nature, or class that offers services, facilities, benefits, grants, or goods to the public, gratuitously or otherwise. This definition shall not be construed by negative implication or otherwise to restrict any part or portion of the preexisting definition.

QUALIFIED INDIVIDUAL WITH A DISABILITY: With respect to chapter 3, article A of this title, an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

READILY ACHIEVABLE: Easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

A. The nature and cost of the action needed under this title.

B. The overall financial resources of the facility or facilities involved in the action, the number of persons employed at such facility, and the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility.

C. The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees, and the number, type and location of its facilities.

D. The type of operation or operations of the covered entity, including the composition, structure, and functions of the work force of such entity and the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

REASONABLE ACCOMMODATION: A. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities.

B. Job restructuring, part time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

SEXUAL ORIENTATION: A person's actual, history of, or perceived heterosexuality, homosexuality, or bisexuality but not including participation in conduct that is prohibited by law.

STATE: Each of the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

UNDUE HARDSHIP: An action requiring significant difficulty or expense. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:

- A. The nature and cost of the accommodation needed under this title.
- B. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility.
- C. The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees, and the number, type, and location of its facilities.
- D. The type of operation or operations of the covered entity including the composition, structure, and functions of the work force of such entity and the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

UNFAIR PRACTICE OR DISCRIMINATORY PRACTICE: Those practices specified as unfair or discriminatory in chapters 3 and 5 of this title.

CHAPTER 2: **~~EQUITY AND~~ HUMAN RIGHTS COMMISSION**

8-2-1: COMMISSION CREATED:

There is hereby created the ~~equity and~~ human rights commission.

8-2-2: PURPOSE:

The purpose of the commission is to establish a human rights commission in conformance with the Iowa Civil Rights Act, to declare the public policy of nondiscrimination in the city; to provide for educational programs to prevent and eliminate discrimination in the city; and to cooperate with the Iowa Civil Rights Commission in the fulfillment of contractual obligations and the enforcement process.

8-2-3: INTERNAL ORGANIZATION AND RULES:

The commission may adopt rules and regulations to govern its organizational procedures as may be necessary and which are not in conflict with this code or the Iowa Code. The Commission has adopted Administrative Rules which shall govern the work of the body and the enforcement process.

8-2-4: PROCEDURES FOR OPERATION:

All administrative, personnel, accounting, budgetary, and procurement policies of the city govern the commission in all its operations.

8-2-5: MEMBERSHIP:

The commission comprises nine (9) residents of the city, appointed by the city council with representation from various sectors of the community, including those protected from discrimination under this ordinance.~~from various racial, religious, cultural, and social groups within the city.~~

8-2-6: OATH:

Each person, upon appointment to the commission, must execute an oath of office at the first meeting of the commission following the appointment or at the city clerk's office any time prior to the first meeting of the commission.

8-2-7: TERMS:

The term of office for commissioners is three (3) years or until such commissioner's successor is appointed and qualified.

8-2-8: VACANCIES:

Vacancies must be filled in the same manner as original appointments.

8-2-9: OFFICERS; ORGANIZATION:

A. Chair and Vice Chair. The commissioners must choose annually a chairperson and vice chairperson, each to serve a term of one year.

B. Vacancies in Chair and Vice Chair. The commissioners must fill a vacancy among its officers for the remainder of the officer's unexpired term.

C. Secretary. A city staff member shall serve as secretary.

8-2-10: MEETINGS:

A. Regular Meetings: The commission will be scheduled to meet monthly and must meet at least once per quarter.

B. Special Meetings: Special meetings may be called by the chairperson or at the written request of a majority of the commissioners.

C. Open Meetings: All meetings must be called and held in conformance with the Iowa open meetings law.

D. Attendance:

1. In the event a commissioner has been absent for three (3) or more meetings of the commission, without being excused by the chairperson, such absence will be grounds for the commission to recommend to the city council that the position be declared vacant and a replacement appointed.

2. Attendance must be entered upon the minutes of all meetings.

3. Remote attendance is allowed; arrangements should be made with city staff in advance of the meeting.

E. Minutes: A copy of the minutes of all regular and special meetings of the commission must be filed with the city council within ten (10) working days after approval by the commission, or by the next regularly scheduled city council meeting, whichever is later.

F. Quorum: Five (5) commissioners constitute a quorum for the transaction of business. The affirmative vote of a majority of the commissioners present and voting is necessary for the adoption of any motion or resolution.

8-2-11: COMPENSATION:

Commissioners serve without compensation, provided that they may receive reimbursement for necessary travel and other expenses while on official commission business within the limits established in the city administrative policies and budget.

8-2-12: REMOVAL:

The city council may remove any commissioner for cause upon written charges and after public hearing.

8-2-13: POWERS, DUTIES, AND RESPONSIBILITIES:

The commission serves in an advisory capacity to the City Council and has the following powers, duties, and responsibilities:

A. To study the existence, character, causes, and extent of ~~inequity and~~ discrimination in public accommodations, credit transactions, employment, apprenticeship programs, on the job training programs, vocational schools, other educational institutions, and housing in the city and to attempt the elimination of such ~~inequity and~~ discrimination through education, conciliation, and recommended changes to policy and practice.

B. To form subcommittees to address specifically identified goals or needs in the community related to the elimination of ~~inequity and~~ discrimination.

C. To attend events and training opportunities both within the community and beyond.

D. To actively promote human rights to various groups in the community including governmental bodies, clubs, schools, and media.

E. To assist the City Manager, upon request, in the recruitment and selection of staff.

F. To work with the staff appointed by the City Manager to:

1. Review and provide feedback to city staff on the annual report prepared for transmission to the Mayor and City Council describing the work performed by the staff and the commission;

2. Discuss, develop, and submit budget requests in furtherance of the objectives and goals of the Commission and Department;

3. Review at the regular meetings intake and complaint data.

4. As needed, prepare for public hearings by attending training on the procedures outlined in the Administrative Rules for conducting a hearing.

G. To make recommendations to the City Council concerning ~~advancing equity, promoting inclusion, the promotion and advancement of respect and belonging in the community~~ and addressing discrimination in order to improve quality of life, ~~and~~ livability ~~and equity~~ for all residents, including the adjustment or adoption of regulations consistent with and necessary for the civil rights enforcement provisions of this Title.

H. To cooperate, within the limits of any appropriations made for its operation, with other agencies or organizations, both public and private, whose purposes are consistent with those of this chapter, in the planning and conducting of programs designed to advance ~~equity-respect and belonging or and~~ eliminate discrimination ~~or cultural and intergroup-community~~ tensions.

I. To receive, administer, dispense, and account for any restricted funds that may be donated to the commission and any grants that may be awarded the commission for furthering the purposes of this title. No disbursements will be made of any restricted funds without authority from the City Council.

J. On occasion, and pursuant to this Title, the adopted Administrative Rules, the City contract with the Iowa Civil Rights Commission, and the Iowa Code, hold hearings upon a complaint made against a covered person or entity alleging a violation of the protections afforded by this Title for which conciliation efforts have failed to resolve the complaint.

8-2-14: RECORDS TO BE PUBLIC; EXCEPTIONS:

All records of the commission are public except charges, complaints, reports of investigations, statements, and other documents or records obtained in investigation of any charges.

8-2-15: CONFIDENTIALITY OF COMPLAINTS AND INVESTIGATORY MATERIALS:

No member of the commission will disclose the filing of a charge, the information gathered during the investigation, or the endeavors to eliminate such discriminatory or unfair practice by conference, conciliation, or persuasion unless such disclosure is made in connection with the conduct of such investigation or after the commission has held a public hearing upon a complaint filed in connection with such charge. This section does not prevent any complainant, witness, or other person from publicizing the filing of a charge or complaint or the matter therein complained of.

8-2-16: SUBPOENAS:

The staff assigned to the commission may issue subpoenas and order discovery in aid of investigations under this title pursuant to the Administrative Rules. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply for county attorney subpoenas.

CHAPTER 3: UNFAIR AND DISCRIMINATORY PRACTICES

8-3-1: GENERALLY:

A. Aiding Or Abetting: It shall be an unfair or discriminatory practice for:

1. Any person to intentionally aid, abet, compel, or coerce another person to engage in any of the practices declared unfair or discriminatory by this title.

2. Any person to discriminate against another person in any of the rights protected against discrimination on the basis of race, creed, color, sex, national origin, familial status, religion, age, disability, marital status, or sexual orientation, ~~or gender identity~~ by this chapter because such person has lawfully opposed any practice forbidden under this

chapter, obeys the provisions of this chapter, or has filed a complaint, testified, or assisted in any proceeding under this title.

3. Any person to discriminate against another person because of the person's relationship or association with a person protected under this title.

B. Sex And Age Discrimination Provisions Not Applicable To Retirement Plans; Exception: The provisions of this title relating to discrimination because of sex or age shall not be construed to apply to any retirement plan or benefit system of any employer unless such plan or system is a mere subterfuge adopted for the purposes of evading the provisions of this title.

1. However, a retirement plan or benefit system shall not require the involuntary retirement of a person because of that person's age.

2. A health insurance program provided by an employer may exclude coverage of abortion, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.

3. An employee welfare plan may provide life, disability, or health insurance benefits which vary by age based on actuarial differences if the employer contributes equally for all the participating employees or may provide for employer contributions differing by age if the benefits for all the participating employees do not vary by age.

C. Sexual Harassment Victim Protection: Evidence concerning the past sexual behavior of an alleged victim of sexual harassment shall not be admissible in any proceeding before the human rights commission.

8-3-2: ACCOMMODATIONS OR SERVICES:

A. Prohibited Practices: It shall be an unfair or discriminatory practice for any owner, lessee, sublessee, proprietor, manager, or superintendent of any public accommodation or any agent or employee thereof:

1. To refuse or deny to any person because of race, creed, color, sex, age, national origin, religion, or sexual orientation, ~~or gender identity~~ the accommodations, advantages, facilities, services, or privileges thereof, or otherwise to discriminate against any person because of race, creed, color, sex, age, national origin, religion, or sexual orientation, ~~or gender identity~~ in the furnishing of such accommodations, advantages/facilities, services, or privileges.

2. To directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons of any particular race, creed, color, sex, age, national origin, religion, or sexual orientation, ~~or gender identity~~ is unwelcome, objectionable, not acceptable, or not solicited.

B. Exemptions: This section shall not apply to:

1. Any bona fide religious institution with respect to any qualifications the institution may impose based on religion when such qualifications are related to a bona fide religious purpose.
2. The rental or leasing to transient individuals of less than four (4) rooms within a single housing accommodation if the occupant or owner or members of the owner's or occupant's family reside therein.
3. Discounts for services or accommodations based upon age.

8-3-3: EMPLOYMENT PRACTICES:

A. Prohibited Practices: It shall be an unfair or discriminatory practice for any:

1. Person to refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the race, creed, color, sex, age, national origin, religion, or sexual orientation, ~~or gender identity~~ of such applicant or employee, unless based upon the nature of the occupation.
2. Labor organizations or the employees, agents, or members thereof to refuse to admit to membership any applicant, to expel any member, or to otherwise discriminate against any applicant for membership or any member in the privileges, rights, or benefits of such membership because of the race, creed, color, sex, age, national origin, religion, or sexual orientation, ~~or gender identity~~ of such applicant or member.
3. Employer, employment agency, labor organization, or the employees, agents, or members thereof, to directly or indirectly advertise or in any other manner indicate or publicize that individuals of any particular race, creed, color, sex, age, national origin, religion, or sexual orientation, ~~or gender identity~~ are unwelcome, objectionable, not acceptable, or not solicited for employment or membership, unless based upon the nature of the occupation.

B. Exemptions:

1. The prohibition by this section of discrimination based on sexual orientation shall not apply to any bona fide religious institution with respect to any qualifications for employment by such institution.
2. This section shall not apply to:
 - a. Any employer who regularly employs less than four (4) individuals. For purposes of this subsection, the owners, owners' spouses, and children shall not be counted as employees.
 - b. The employment of individuals for work within the home of the employer if the employer or members of the employer's family reside therein during such employment.

c. The employment of individuals to render personal service to the person of the employer or members of the employer's family.

d. Any bona fide religious institution or its educational association, corporation, or society with respect to any qualifications for employment based on religion when such qualifications are related to a bona fide religious purpose. A religious qualification for instructional, personnel, or administrative officer serving in a supervisory capacity of a bona fide religious educational facility or religious institution shall be presumed to be a bona fide occupational qualification.

e. Discrimination on the basis of age if the person subject to the discrimination is under the age of eighteen (18) years, unless that person is considered by law to be an adult.

f. A State or Federal program designed to benefit a specific age classification which serves a bona fide public purpose.

8-3-4: CREDIT:

It shall be an unfair or discriminatory practice for any:

A. Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds and current situations because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, sexual orientation, or familial status, ~~or gender identity~~.

B. Person authorized or licensed to do business in this State pursuant to chapters 524, 533, 534, 536, or 536A of the Code of Iowa to refuse to loan or extend to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, sexual orientation, or familial status, ~~or gender identity~~.

C. Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability, sex, sexual orientation, or familial status, ~~or gender identity~~. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or physical disability of the consumer shall not be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by the Code of Iowa or United States Code.

D. The provisions in this section shall not be construed by negative implications or otherwise to narrow or restrict any other provisions of this title.

8-3-5: EDUCATION:

A. Prohibited Practices; Exceptions:

1. It is an unfair or discriminatory practice for any educational institution to discriminate on the basis of race, creed, color, sex, national origin, religion, disability, or sexual orientation, ~~or gender identity~~ in any program or activity. Such discriminatory practices shall include, but not be limited to, the following practices:

a. Exclusion of a person or persons from participation in, denial of the benefits of, or subject to discrimination in any academic, research, occupational training, or other program or activity except athletic programs.

b. Denial of comparable opportunity in intramural and interscholastic athletic programs.

c. Discrimination among persons in employment and the conditions of employment.

d. On the basis of sex, the application of any rule concerning the actual or potential parental, family, or marital status of a person or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions dependent upon the physician's diagnosis and certification.

2. For the purposes of this section, "educational institution" includes any preschool, elementary, secondary, or community college, area education agency, postsecondary college or university, and their governing boards. This section does not prohibit an educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided. Nothing in this subsection shall be construed as prohibiting any bona fide religious institution from imposing qualifications based on religion when such qualifications are related to a bona fide religious purpose or any institution from admitting students of only one sex.

B. Examinations And Courses: Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

ARTICLE A. DISABILITY DISCRIMINATION

8-3A-1: EMPLOYMENT PROHIBITED PRACTICES:

A. General Rule: No person shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

B. Construction: As used in subsection A of this section, the term "discriminate against an individual on the basis of disability" includes:

1. Limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee.

2. Participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title. Such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs.

3. Utilizing standards, criteria, or methods of administration:

a. That have the effect of discrimination on the basis of disability.

b. That perpetuate the discrimination of others who are subject to common administrative control.

4. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association.

5. Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity, or denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant.

6. Using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard test or other selection criteria, as used by the covered entity, is shown to be job related for the position in question and is consistent with business necessity.

7. Failing to select and administer tests concerning employment in the most effective manner to ensure that when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant, except where such skills are the factors that the test purports to measure.

8. Soliciting or requiring as a condition of employment of any employee or prospective employee a test for the presence of the antibody to the human immunodeficiency virus or affecting the terms, conditions, or privileges of employment or terminating the employment of any employee solely as a result of the employee obtaining a test for the presence of the antibody to the human immunodeficiency virus. An

agreement between an employer, employment agency, labor organization, or their employees, agents, or members and an employee or prospective employee concerning employment, pay, or benefits to an employee or prospective employee in return for taking a test for the presence of the antibody to the human immunodeficiency virus is prohibited. The prohibitions of this subsection do not apply if the state epidemiologist determines and the state director of public health declares through the utilization of guidelines established by the center for disease control of the United States department of health and human services that a person with a condition related to acquired immune deficiency syndrome poses a significant risk of transmission of the human immunodeficiency virus to other persons in a specific occupation.

C. Medical Examinations And Inquiries:

1. In General: The prohibition against discrimination as referred to in subsection A of this section shall include medical examinations and inquiries.

2. Preemployment:

a. Prohibited Examination Or Inquiry: Except as provided in subsection C3 this section, a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

b. Acceptable Inquiry: A covered entity may make preemployment inquiries into the ability of an applicant to perform job related functions.

3. Employment Entrance Examination: A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant and may condition an offer of employment on the results of such examination, if:

a. All entering employees are subjected to such an examination regardless of disability.

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

(1) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

(2) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

(3) Government officials investigating compliance with this chapter shall be provided relevant information on request.

c. The results of such examination are used only in accordance with this chapter.

4. Examination And Inquiry:

a. **Prohibited Examinations And Inquiries:** A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job related and consistent with business necessity.

b. **Acceptable Examinations And Inquiries:** A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at the work site. A covered entity may make inquiries into the ability of an employee to perform job related functions.

c. **Requirement:** Information obtained under subsection C4b of this section regarding the medical condition or history of any employee is subject to the requirements of subsections C3b and C3c of this section.

8-3A-2: DEFENSES, EXEMPTIONS AND EXCLUSIONS:

A. Defenses:

1. **In General:** It may be a defense to a charge of discrimination under this article that an alleged application of qualification standards, tests, or selection criteria that screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

2. **Qualification Standards:** The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

3. **Qualification Standards And Tests Related To Uncorrected Vision:** Notwithstanding the provisions under the definition of "disability" in section 8-1-1 of this title, a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job related and consistent with business necessity.

4. **Reasonable Accommodation And Good Faith Effort:** In cases where a discriminatory practice involves the provision of a reasonable accommodation pursuant to this subsection, actual damages other than damages for back pay may not be awarded under this title where the covered entity proves, by a preponderance of the evidence, good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

5. **List Of Infectious And Communicable Diseases:**

a. Applications: In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food that is included on the list developed by the secretary of health and human services under 42 USC 12113(d) and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

b. Construction: Nothing in this article shall be construed to preempt, modify, or amend any local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the secretary of health and human services.

B. Exemptions: This article shall not apply to:

1. Any employer who regularly employs less than four (4) individuals. For purposes of this subsection, the owner(s), the owner(s)' spouse(s), and children shall not be counted as employees.

2. The employment of individuals for work within the home of the employer if the employer or members of the employer's family reside therein during such employment.

3. The employment of individuals to render personal service to the person of the employer or members of the employer's family.

4. An employer's qualifications for a job may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace. (Ord. 18-09, 4-6-2009)

C. Exclusions: For purposes of the definition of "disability" in section 8-1-1 of this title, the following are not impairments and as such are not disabilities under this article:

1. Homosexuality, bisexuality, ~~transvestism, transsexualism, and gender identity disorders~~ not resulting from physical impairments;

2. Pedophilia, exhibitionism, voyeurism, or other sexual behavior disorders;

3. Compulsive gambling, kleptomania, or pyromania; or

4. Psychoactive substances use disorders resulting from current illegal use of drugs.

8-3A-3: CONSTRUCTION:

A. Insurance:

1. This title shall not be construed to prohibit or restrict:

a. An insurer, hospital, or medical service company, health maintenance organization, or any agent or entity that administers benefit plans or similar organizations

from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with other laws of this state.

b. A person or organization covered by this title from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with other laws of this state.

c. A person or organization covered by this title from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that is subject to the laws of this state that regulate insurance.

2. Subsection A1 of this section shall not be used as subterfuge to evade the purposes of this title.

B. Accommodations And Services: Nothing in this title shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

C. Smoking: Nothing in this article shall be construed to preclude the prohibition of or the imposition of restrictions on smoking in places of employment or in public accommodations.

8-3A-4: ILLEGAL USE OF DRUGS AND ALCOHOL:

A. Qualified Individual With A Disability: For purposes of this article, a qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

B. Rules Of Construction: Nothing in subsection A of this section shall be construed to exclude as a qualified individual with a disability an individual who:

1. Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use.

2. Is participating in a supervised rehabilitation program and is no longer engaging in such use.

3. Is erroneously regarded as engaging in such use, but is not engaging in such use; except that it shall not be a violation of this title for a covered entity to adopt or administer reasonable policies or procedures including, but not limited to, drug testing designed to ensure that an individual described in subsection B1 or B2 of this section is no longer engaging in the illegal use of drugs. However, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

C. Authority Of Covered Entity: A covered entity:

1. May prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees.

2. May require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace.

3. May hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee.

D. Drug Testing:

1. In General: For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

2. Construction: Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

E. Governmental Regulations: Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Iowa department of transportation or any other state or federal agency of authority to:

1. Test employees of such entities in, and applicants for, positions involving safety sensitive duties for the illegal use of drugs and for on duty impairment by alcohol.

2. Remove such persons who test positive for illegal use of drugs and on duty impairment by alcohol pursuant to subsection E1 of this section from safety sensitive duties in implementing subsection C of this section.

8-3A-5: PUBLIC ACCOMMODATIONS; PROHIBITED PRACTICES:

A. It shall be an unfair or discriminatory practice for any person on the basis of disability to refuse or deny full and equal enjoyment of the goods, services, facilities, privileges, advantages, or other public accommodations.

B. It shall be an unfair or discriminatory practice not to afford an individual or class of individuals on the basis of disability the full and equal enjoyment of a facility in an integrated setting appropriate to the needs of the individual.

C. It shall be an unfair or discriminatory practice for any person to discriminate against an individual or class of individuals in any of the following:

1. It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other

individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, accommodation, or other opportunity that is as effective as that provided to others.

2. Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

3. A public accommodation shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration:

a. That have the effect of discriminating on the basis of disability.

b. That perpetuate the discrimination of others who are subject to common administrative control.

4. It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to a person because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

D. For purposes of subsection A of this section, discrimination includes:

1. The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered.

2. A failure to make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.

3. A failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the goods, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden.

4. A failure to remove architectural barriers and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of hydraulic or other lift), where such removal is readily achievable.

5. Where an entity can demonstrate that the removal of a barrier under subsection D4 this section is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

E. Nothing in this section shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages, and accommodations of such entity where such individual poses a direct threat to the health or safety of others.

8-3A-6: NEW CONSTRUCTION AND ALTERATION OF PUBLIC ACCOMMODATIONS:

A. It shall be an unfair or discriminatory practice for any person on the basis of disability to:

1. Fail to design and construct all public accommodations built after September 1, 1996, so that they are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet such requirements.

2. With respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope.

B. Subsections A1 and A2 of this section shall not be construed to require the installation of an elevator for facilities that are less than three (3) stories or have less than three thousand (3,000) square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a healthcare provider.

CHAPTER 4: ENFORCEMENT OF CIVIL RIGHTS

8-4-1: FILING COMPLAINTS:

A. Filing Of Verified, Written Complaint: All persons claiming to be aggrieved by a discriminatory or unfair practice within this city may sign and file with the commission a

verified, written complaint in triplicate which shall state the name and address of the person alleged to have committed the discriminatory or unfair practice of which complained, shall set forth the particulars thereof, and shall contain such other information as may be required by the commission. The commission, a commissioner, or the city attorney's office may in like manner sign and file such complaint.

B. Protection Of Person's Identity: A person who has tested positive for human immunodeficiency virus or who has a diagnosis of acquired immune deficiency syndrome or a person who is perceived to have human immunodeficiency virus or acquired immune deficiency may file a disability charge utilizing "John Doe", "Jane Doe", or a coded number to protect the person's identity. The name of the charging party shall be disclosed to the respondent. It shall be a discriminatory practice for any person to disclose the name of the coded person or information that would lead to that person's identity.

8-4-2: AMENDMENTS OF COMPLAINTS:

The commission or the complainant shall have the power to reasonably and fairly amend any complaint and the respondent shall have like power to amend such respondent's answer at any time prior to hearing.

8-4-3: TIME LIMITATION FOR FILING COMPLAINT:

A. A claim under this title shall not be maintained unless a complaint is filed with the commission within three hundred (300) days after the alleged discriminatory or unfair practice occurred.

B. For purposes of this section, an unlawful employment practice occurs, with respect to discrimination in compensation in violation of this title, when a discriminatory compensation decision or other practice is adopted, when an individual becomes subject to a discriminatory compensation decision or other practice, or when an individual is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.

8-4-4: COMMISSION STAFF PROCEEDINGS ON COMPLAINTS:

A. Notice To Respondent: After the filing of a verified complaint, a true copy shall be served within twenty (20) days by personal service, certified mail, or overnight mail with tracking to ensure service, on the person against whom the complaint is filed.

B. Screening: The director shall review each complaint and is authorized to administratively close a case when the city manager finds any of the following:

1. Lack of jurisdiction.

2. Minimal impact on civil rights in the community.
3. Further processing is not warranted.

C. Investigation By Staff; Probable Cause Determination By Administrative Law Judge: An authorized member of the commission shall make a prompt investigation and shall issue a recommendation to an administrative law judge under the jurisdiction of the commission, who shall then issue a determination of probable cause or no probable cause.

1. For purposes of this chapter, an administrative law judge issuing a determination of probable cause or no probable cause under this section shall be exempt from section 17A.17 of the code of Iowa.

2. If the administrative law judge concurs with the investigating official that probable cause exists regarding the allegations of the complaint, the staff of the commission shall promptly endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion. If the administrative law judge finds that no probable cause exists, the administrative law judge shall issue a final order dismissing the complaint and the commission shall promptly mail a copy to the complainant and to the respondent by certified mail.

A finding of probable cause shall not be introduced into evidence in an action brought under section 8-4-7 of this chapter.

D. Conciliation Conference And Persuasion Procedures: The commission staff must endeavor to eliminate the discriminatory or unfair practice by conciliation conference and persuasion for a period of thirty (30) days following the initial conciliation meeting between the respondent and the commission staff after a finding of probable cause. After the expiration of thirty (30) days, the city manager may order the conciliation conference and persuasion procedure provided in this section to be bypassed when the city manager determines the procedure is unworkable by reason of past patterns and practices of the respondent or a statement by the respondent that the respondent is unwilling to continue with the conciliation. Upon the bypassing of conciliation, the city manager shall state in writing the reasons for bypassing.

8-4-5: COMMISSION PROCEEDINGS UPON FAILURE TO REACH SETTLEMENT BY CONCILIATION:

A. Notice Of Hearing: When the city manager is satisfied that further endeavor to settle a complaint by conference, conciliation, and persuasion is unworkable and should be bypassed and the thirty (30) day period provided for in section 8-4-4 of this chapter has expired without agreement, the city manager, with the approval of a commissioner, shall issue and cause to be served a written notice:

1. Specifying the charges in the complaint as they may have been amended and the reasons for bypassing further conciliation.

2. Requiring the respondent to answer the charges of the complaint at a hearing before the commission, a commissioner, or a person designated by the commission to conduct the hearing, hereafter referred to as the administrative law judge.

3. Specifying a time and place.

B. Participation Of Commission Personnel: The case in support of such complaint shall be presented at the hearing by one of the commission's attorneys or agents. The investigating official shall not participate in the hearing except as a witness, nor shall the official participate in the deliberations of the commission in such case.

C. Conduct Of Hearing: The hearing shall be conducted in accordance with the provisions of chapter 17A of the code of Iowa for contested cases. The burden of proof in such a hearing shall be on the commission.

D. Proposed Order By Hearing Panel Or Judge: In the case of a proposed order by a hearing panel or administrative law judge, the commission may review such proposed order within sixty (60) days. If the commission fails to review such proposed order within sixty (60) days, the proposed order shall become the final order of the commission.

8-4-6: COMMISSION ORDERS:

A. Upon Finding Of Discriminatory, Unfair Practice: If, upon taking into consideration all of the evidence at a hearing, the commission determines that the respondent has engaged in a discriminatory or unfair practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take the necessary remedial action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, and to any other public officers and persons as the commission deems proper.

1. Remedial Actions: For the purposes of this subsection and pursuant to the provisions of this chapter, remedial action includes, but is not limited to, the following:

a. Hiring, reinstatement, or upgrading of employees with or without pay. Interim earned income and unemployment compensation shall operate to reduce the pay otherwise allowable.

b. Admission or restoration of individuals to a labor organization, admission to or participation in a guidance program, apprenticeship training program, on the job training program, or other occupational training or retraining program with the utilization of objective criteria in the admission of individuals to such programs.

c. Admission of individuals to a public accommodation or an education institution.

d. Sale, exchange, lease, rental, assignment, or sublease of real property to an individual.

e. Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent denied to the complainant because of the discriminatory or unfair practice.

f. Reporting as to the manner of compliance.

g. Posting notices in conspicuous places in the respondent's place of business in form prescribed by the commission and inclusion of notices in advertising material.

h. Payment to the complainant of damages for an injury caused by the discriminatory or unfair practice, which damages shall include, but are not limited to, damages and reasonable attorney fees.

i. Reimbursement to the commission for contested case costs.

2. Requirements To Cease And Desist Certifications To Licensing And Contracting Agencies: In addition to the remedies provided in the preceding provisions of this section, the commission may issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and may take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter as follows:

a. In the case of a respondent operating by virtue of a license issued by the state or a political subdivision or agency, if the commission, upon notice to the respondent with an opportunity to be heard, determines that the respondent has engaged in a discriminatory or unfair practice and that the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of such officer's or executive agent's employment, the commission shall so certify to the licensing agency. Unless the commission finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the licensing agency.

b. In the case of a respondent who is found by the commission to have engaged in a discriminatory or unfair practice in the course of performing under a contract or subcontract with the state or political subdivision or agency, if the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of such officer's or executive agent's employment, the commission shall so certify to the contracting agency. Unless the commission's finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the contracting agency.

B. Upon Hearing Finding Of No Discriminatory, Unfair Practice: If, upon taking into consideration all of the evidence at a hearing, the commission finds that a respondent has not engaged in any such discriminatory or unfair practice, the commission shall issue an order denying relief and stating the findings of fact and conclusions of the commission and shall cause a copy of the order dismissing the complaint to be served by regular mail on the complainant and the respondent.

C. Upon Conciliation Agreements:

1. The terms of a conciliation agreement reached with the respondent may require the respondent to refrain in the future from committing discriminatory or unfair practices of the type stated in the agreement, to take remedial action as in the judgment of the commission will carry out the purposes of this code, and to consent to the entry in an appropriate district court of a consent decree embodying the terms of the conciliation agreement. Violation of such a consent decree may be punished by contempt by the court in which it is filed upon a showing by the commission of the violation at any time within six (6) months of its occurrence. In all cases where a conciliation agreement is entered into, the commission shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent, and such other persons as the commission deems proper.

2. At any time, in its discretion, the commission may investigate whether the terms of the agreement are being complied with by the respondent. Upon a finding that the terms of the conciliation agreement are not being complied with by the respondent, the commission shall take appropriate action to assure compliance.

8-4-7: RELEASE FROM ADMINISTRATIVE PROCESS; ALTERNATIVE JUDICIAL PROCEEDINGS UPON COMPLAINTS:

A. Administrative Release: A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek an administrative relief by filing a complaint with the commission in accordance with section 8-4-1 of this chapter. A complainant, after the proper filing of a complaint with the commission, may subsequently commence an action for relief in the district court if all of the following conditions have been satisfied:

1. The complainant has timely filed the complaint with the commission as provided in section 8-4-3 of this chapter.

2. The complaint has been on file with the commission at least sixty (60) days and the commission has issued a release to the complainant pursuant to this section.

3. The complainant has requested an administrative release from the Iowa civil rights commission via the Dubuque human rights commission.

4. The complainant has received an administrative release from the Iowa civil rights commission.

B. Screening Of Complaint: It is the legislative intent of this section that every complaint be at least preliminarily screened during the first sixty (60) days. This subsection does not authorize administrative closures if an investigation is warranted.

8-4-8: PROVISIONAL REMEDIES:

If, any time after the filing of a complaint, it shall appear to the commission that there is reason to believe that the party charged has violated this chapter and there is reason to believe that the person charged is about to commit acts which would make impossible

compliance with an order of the commission to alleviate the grievance, or it appears that a complainant may suffer irreparable injury as a result of alleged violation, the commission's attorney may seek a temporary injunction restraining the party charged from doing these acts pending completion of the proceedings under this chapter. A temporary injunction may be issued only after the respondent has been notified and afforded the opportunity to be heard, except that an ex parte temporary injunction may be issued when the complainant alleges housing discrimination.

8-4-9: JUDICIAL REVIEW; ENFORCEMENT ACTIONS:

A. Filing Petition For Judicial Review: Judicial review of the actions of the commission may be sought in accordance with the terms of the Iowa administrative procedure act [1](#) . Notwithstanding the terms of such act, petition for judicial review may be filed in the district court in which an enforcement proceeding under subsection B of this section may be brought. For purposes of the time limit for filing a petition for judicial review under the Iowa administrative procedure act, the issuance of a final decision of the commission under this chapter occurs on the date notice of the decision is mailed by regular mail to the parties. Notwithstanding the time limit provided in section 17A.19, subsection 3 of the code of Iowa, a petition for judicial review of no probable cause decisions and other final agency actions which are not of general applicability must be filed within thirty (30) days of the issuance of the final agency action.

B. Order For Enforcement: The commission may obtain an order for the enforcement of commission orders in a proceeding as provided in this section. Such an enforcement proceeding shall be brought in the district court of the district in the county in which the alleged discriminatory or unfair practice which is the subject of the commission's order was committed, or in which any respondent required in the order to cease or desist from a discriminatory or unfair practice or take other affirmative action, resides or transacts business.

C. Transcript Of Record Of Hearing Filed With Court: Such an enforcement proceeding shall be initiated by the filing of a petition in such court and the service of a copy thereof upon the respondent. Thereupon, the commission shall file with the court a transcript of the record of the hearing before it. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript an order enforcing, modifying, and enforcing as so modified, or setting aside the order of the commission, in whole or in part.

D. Consideration Of Objection: An objection that has not been urged before the commission shall not be considered by the court in an enforcement proceeding unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

E. Remission Of Case To Commission: Any party to the enforcement proceeding may move the court to remit the case to the commission in the interests of justice for the purposes of adducing additional specified and material evidence and seeking findings

thereof, provided such party shall show reasonable grounds for the failure to adduce such evidence before the commission.

F. **Determination Under State Statute:** In the enforcement proceeding, the court shall determine its order on the same basis as it would in a proceeding reviewing commission action under section 17A.19 of the code of Iowa.

G. **Availability Of Testimony:** The commission's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the commission's orders.

H. **Commission Attorney Appearance In Court:** The commission may appear in court by its own attorney.

I. **Expeditious Hearing On Petitions:** Petitions filed under this section shall be heard expeditiously and determined upon the transcript filed without requirement for hearing.

J. **Failure To Obtain Judicial Review:** If no proceeding to obtain judicial review is instituted within thirty (30) days from the service of an order of the commission under section 8-4-6 of this chapter, the commission may obtain an order of the court for the enforcement of such order upon showing that respondent is subject to the jurisdiction of the commission and resides or transacts business within the county in which the petition for enforcement is brought.

Notes

1 1. IC ch. 17A.

8-4-10: RULE OF CONSTRUCTION:

This chapter shall be construed liberally to effectuate its purpose.

CHAPTER 5: FAIR HOUSING

8-5-1: DEFINITIONS:

As used in this chapter:

AGGRIEVED PERSON: Any person who:

A. Claims to have been injured by discriminatory housing practice.

B. Believes that such person will be injured by a discriminatory housing practice that is about to occur.

COMPLAINANT: The person who files a complaint under section 8-5-6 of this chapter.

CONCILIATION: The attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the commission.

CONCILIATION AGREEMENT: A written agreement setting forth the resolution of the issues in conciliation.

DISCRIMINATORY HOUSING PRACTICE: An act that is unlawful under section 8-5-2, 8-5-4, or 8-5-5 of this chapter.

DWELLING: Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

FAMILY: A single individual.

PERSON: An individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint stock company, trust, unincorporated organizations, trustees, trustee in cases under title 11 of the United States code, receiver, fiduciary, or any other legal entity.

PREVAILING PARTY: The same as such term has in section 722 of the revised statutes of the United States (42 USC 1988).

RESPONDENT: A. The person or other entity accused in a complaint of an unfair housing practice.

B. Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under subsection 8-5-6A of this chapter.

SECRETARY: The U.S. secretary of housing and urban development.

STATE: The state of Iowa and any of its political subdivisions.

TO RENT: To lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant.

8-5-2: PROHIBITIONS:

It shall be unlawful:

A. To 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, a dwelling to any person because of race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation, ~~or gender identity~~.

B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation, ~~or gender identity~~.

C. To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation, ~~or gender identity~~, or an intention to make any such preference, limitation, or discrimination.

D. To represent to any person because of race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation, ~~or gender identity~~ that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or disabled persons of a particular race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation, ~~or gender identity~~.

F. 1. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

- a. That buyer or renter.
- b. A person residing in or intending to reside in that dwelling after it is ~~so~~ sold, rented, or made available.
- c. Any person associated with that buyer or renter.

2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection with such dwelling, because of a disability of:

- a. That person.
- b. A person residing in or intending to reside in that dwelling after it is ~~so~~ sold, rented, or made available.
- c. Any person associated with that person.

3. For purposes of this subsection, discrimination includes:

- a. A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter, agreeing to restore the interior of the premises to the condition that existed before 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 such person equal opportunity to use and enjoy a dwelling.

c. In connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:

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

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

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

(A) An accessible route into and through the dwelling.

(B) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

(C) Reinforcements in bathroom walls to allow later installation of grab bars.

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

4. Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for physically disabled persons (commonly cited as ANSI A117.1) suffices to satisfy the requirements of subsection F3c(3) of this section.

5. As used in this subsection, the term "covered multi-family dwellings" means:

a. Buildings consisting of four (4) or more units if such buildings have one or more elevators.

b. Ground floor units in other buildings consisting of four (4) or more units.

6. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

8-5-3: EXEMPTIONS:

A. Exemptions Enumerated: Nothing in section 8-5-2 of this chapter, other than subsection 8-5-2C of this chapter, shall apply to:

1. Any single-family house sold or rented by an owner; provided, that:

a. The private individual owner does not own more than three (3) such single-family houses at any one time.

b. In the sale of any single-family house, the private individual owner does not reside in, nor is the most recent resident of such house prior to such sale; the exemption granted by this subsection shall apply to only one such sale within a twenty four (24) month period.

c. The bona fide private individual owner does not own any interest in, nor is there owned or reserved on the owner's behalf, under express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at one time.

d. There is no utilization in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person.

e. There is no publication, posting, or mailing, after notice, of any advertisement or written notice in violation of subsection 8-5-2C of this chapter. Nothing in this subsection prohibits the utilization of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

B. Selling Or Renting Dwellings: For the purposes of subsection A of this section, a person shall be deemed to be in the business of selling or renting dwellings if:

1. The person has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein.

2. The person has, within the preceding twelve (12) months, participated as agent, other than in the sale of the person's own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein.

3. The person is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

C. Religious Or Nonprofit Organizations: Nothing in this chapter shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, familial status, national origin, creed, age, disability, or sexual orientation, ~~or gender identity~~. Nor shall anything in this chapter

prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other occupancy of such lodging to its members or from giving preference to its members.

D. Applicability Of Housing Regulations; Housing For Older Persons:

1. Nothing in this chapter limits the applicability of title 14, chapter 1 of this code regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this chapter regarding familial status or age apply with respect to housing for older persons.

2. As used in this section, "housing for older persons" means housing:

a. Provided under any state or federal program that the secretary determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program.

b. Intended for, and solely occupied by, persons sixty two (62) years of age or older.

c. Intended and operated for occupancy by at least one person fifty five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the commission shall develop regulations which require at least the following factors:

(1) That at least eighty percent (80%) of the units are occupied by at least one person fifty five (55) years of age or older per unit.

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

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

a. Persons residing in such housing as of the date of enactment of this chapter who do not meet the age requirements of subsection D2b or D2c of this section; provided, that new occupants of such housing meet the age requirements of subsection D2b or D2c of this section.

b. Unoccupied units; provided, that such units are reserved for occupancy by persons who meet the age requirements of subsection D2b or D2c of this section.

4. Nothing in this chapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in the controlled substances act (21 USC 802) or a violation of the controlled substances chapter of the Iowa Code [1](#) .

Notes

8-5-4: DISCRIMINATION IN RESIDENTIAL REAL ESTATE RELATED TRANSACTIONS:

A. In General: It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation, ~~or gender identity~~.

B. Definition: As used in this section, the term "residential real estate related transaction" means any of the following:

1. The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing, or maintaining a dwelling.
 - b. Secured by residential real estate.
2. The selling, brokering, or appraising of residential real property.

C. Appraisal Exemption: Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation, ~~or gender identity~~.

8-5-5: DISCRIMINATION IN PROVISION OF BROKERAGE SERVICES:

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

8-5-6: ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS:

A. Complaints And Answers:

1. An aggrieved person may, not later than three hundred (300) days after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the commission alleging such discriminatory housing practice. The commission, on the commission's own initiative, a commissioner, or the city attorney's office may also file such a complaint.

2. Such complaints shall be in writing and shall contain such information and be in such form as the commission requires.

3. The commission may also investigate housing practices to determine whether a complaint should be brought under this section.

4. Upon the filing of such a complaint:

a. The commission shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this chapter;

b. The commission shall, not later than ten (10) days after such filing or the identification of an additional respondent under subsection A7 of this section, serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this chapter, together with a copy of the original complaint;

c. Each respondent may file, not later than ten (10) days after receipt of notice from the commission, an answer to such complaint; and

d. The commission shall make an investigation of the alleged discriminatory housing practice and complete such investigation within one hundred (100) days after the filing of the complaint unless it is impracticable to do so.

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

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

7. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice. Such notice, in addition to meeting the requirements of subsection A of this section, shall explain the basis for the commission's belief that the person to whom the notice is addressed is properly joined as a respondent.

B. Investigative Report And Conciliation:

1. Beginning with the filing of a complaint, the commission shall, to the extent feasible, engage in conciliation with respect to such complaint.

2. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the commission.

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

4. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this chapter.

5. a. At the end of each investigation under this section, the commission shall prepare a final investigative report containing:

(1) The names and dates of contacts with witnesses.

(2) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent.

(3) A summary description of other pertinent records.

(4) A summary of witness statements.

(5) Answers to interrogatories.

b. A final report under this subsection may be amended if additional evidence is later discovered.

C. Failure To Comply With Conciliation Agreement: Whenever the commission has probable cause to believe that a respondent has breached a conciliation agreement, the commission shall refer the matter to the city attorney's office with a recommendation that a civil action be filed for the enforcement of such agreement.

D. Prohibitions And Requirements With Respect To Disclosure Of Information:

1. Nothing said or done in the course of conciliation under this chapter may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned.

2. Notwithstanding subsection D1 of this section, the commission shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the commission's investigation, information derived from an investigation and any final investigative report relating to that investigation.

E. Prompt Judicial Action: If the commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this chapter, the commission may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such authorization, the city attorney's office shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Iowa rules of civil procedure. The commencement of a civil action under this subsection does not affect the initiation of continuation of administrative proceedings under this chapter.

8-5-7: PROBABLE CAUSE DETERMINATION AND EFFECT:

A. Issuance Of Determination: If the commission determines that probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall immediately issue a determination unless the commission determines that the legality of a zoning or land use law or ordinance is involved as provided in subsection D of this section.

B. Conditions Of Determination: A cause determination must:

1. Consist of a short and plain statement of the facts on which the commission has found probable cause to believe that a discriminatory housing or real estate practice has occurred or is about to occur.

2. Be based on the final investigative report.

3. Need not be limited to the facts or grounds alleged in the complaint.

C. Distribution Of Copies Of Determination: Not later than twenty (20) days after the commission issues a cause determination, the commission shall send a copy of the determination with information as to how to make an election under section 8-5-9 of this chapter to all of the following persons:

1. Each respondent.

2. Each aggrieved person on whose behalf the complaint was filed.

D. Land Use Issues: If the commission determines that the matter involves the legality of a state or local zoning or other land use ordinance, the commission shall not issue a determination and shall immediately refer the matter to the city attorney's office for appropriate action.

E. Dismissal Of Complaint: If the commission determines that no probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall promptly dismiss the complaint. The commission shall make public disclosure of each dismissal under this chapter.

F. Trial Or Civil Action: The commission shall not issue a determination under this subsection regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to the discriminatory housing or real estate practice.

8-5-8: SUBPOENAS; GIVING OF EVIDENCE:

A. In General: The commission may issue subpoenas and order discovery in aid of investigations and hearings under this chapter. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply for county attorney subpoenas.

B. Criminal Penalties:

1. Any person who wilfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to a subpoena or other lawful order under subsection A of this section, shall be referred to the city attorney's office or the county attorney's office for prosecution.

2. Any person who, with intent thereby to mislead another person in any proceeding under this chapter, does the following shall be referred to the city attorney's office or the county attorney's office for prosecution:

a. Makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection A of this section;

b. Wilfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents;

c. Wilfully mutilates, alters, or by any other means falsifies any documentary evidence.

8-5-9: ENFORCEMENT BY COMMISSION:

A. Election Of Judicial Determination: When a probable cause determination has been issued, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in that complaint decided in a civil action under section 8-5-12 of this chapter in lieu of a hearing under subsection F of this section. The election must be made not later than twenty (20) days after the receipt by the electing person of service under section 8-5-7 of this chapter, or, in the case of the commission, not later than twenty (20) days after such service. The person making such election shall give notice of doing so to the commission and to all other complaints and respondents to whom the complaint relates.

B. Administrative Law Judge Hearing In Absence Of Election: If an election is not made under subsection A of this section with respect to a complaint, the commission shall provide an opportunity for a hearing on the record with respect to the complaint issued under section 8-5-6 of this chapter. The commission shall delegate the conduct of a hearing under this section to an administrative law judge appointed by the commission.

C. Rights Of Parties: At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross examine witnesses, and obtain the issuance of subpoenas under section 8-5-8 of this chapter. Any aggrieved person may intervene as a party in the proceeding. The Iowa rules of evidence apply to the presentation of evidence in such hearing as they would in a civil action in the Iowa district court.

D. Expedited Discovery And Hearing:

1. Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

2. A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

E. Resolution Of Charge: Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

F. Hearings, Findings, Conclusions And Order:

1. The administrative law judge shall commence the hearing under this section no later than one hundred twenty (120) days following the probable cause determination, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within one hundred twenty (120) days after the determination, the administrative law judge shall notify the commission, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing, of the reasons for not doing so.

2. The administrative law judge shall make findings of fact and conclusions of law within sixty (60) days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding sixty (60) day period thereafter, the administrative law judge shall notify the commission, the aggrieved person on whose behalf the charge was filed and the respondent, in writing, of the reasons for not doing so.

3. If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent in an amount not to exceed those established by the federal fair housing act in section 42 USC 3612.

4. No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this chapter.

5. In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the commission shall, not later than thirty (30) days after the date of the issuance of such order or if such order is judicially reviewed, thirty (30) days after such order is in substance affirmed upon such review:

a. Send copies of the findings of fact, conclusion of law, and the order to that governmental agency.

b. Recommend to that governmental agency appropriate disciplinary action including, where appropriate, the suspension or revocation of the license of the respondent.

6. If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The commission shall make public disclosure of each such dismissal.

7. An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under a federal or state law, seeking relief with respect to that discriminatory housing practice.

8-5-10: REVIEW BY COMMISSION; SERVICE OF FINAL ORDER:

A. The commission may review any finding, conclusion, or order issued under section 8-5-9 of this chapter. Such review shall be completed not later than sixty (60) days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

B. The commission shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

8-5-11: JUDICIAL REVIEW:

A. Review Of Order: Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain review of such order by filing a petition for review not later than thirty (30) days after the order is issued in the Iowa district court pursuant to chapter 17A, code of Iowa.

B. Court Enforcement Of Administrative Order Upon Petition By Commission:

1. The commission may petition the Iowa district court in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

2. The commission shall file in court with the petition the record of the proceeding. A copy of such petition shall be forthwith transmitted by the commission to the parties to the proceeding before the administrative law judge.

C. Relief Which May Be Granted:

1. Upon the filing of a petition under section 8-5-6 of this chapter, the court may, pursuant to section 216.17 of the code of Iowa:

a. Grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper.

b. Affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings.

c. Enforce such order to the extent that such order is affirmed or modified.

2. Any party to the proceeding before the administrative law judge may intervene on appeal to the court.

3. No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

D. Court Enforcement Of Administrative Order Upon Petition Of Any Person Entitled To Relief: After a final order of the commission, any person entitled to relief under the order may petition for a decree enforcing the order in the Iowa district court in Dubuque County, Iowa.

E. Civil Action For Enforcement When Election Is Made For Such Civil Action:

1. If an election is made under subsection 8-5-7C of this chapter, the commission shall authorize, not later than thirty (30) days after the election is made, the city attorney's office to commence and maintain a civil action on behalf of the aggrieved person in the Iowa district court in and for Dubuque County seeking relief under this subsection in accordance with section 216.16A of the code of Iowa.

2. Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

3. In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 8-5-12 of this chapter. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 8-5-12 of this chapter shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

F. Attorney Fees: In any administrative proceeding brought under this section or any court proceeding arising therefrom or any civil action, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the commission, reasonable attorney fees and costs.

8-5-12: ENFORCEMENT BY PRIVATE PERSONS:

A. Civil Action:

1. An aggrieved person may commence a civil action in an appropriate United States district court or state court not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this chapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

2. The computation of such two (2) year period shall not include any time during which an administrative proceeding under this chapter was pending with respect to a complaint or charge under this chapter based upon such discriminatory housing practice. This subsection does not apply to actions arising from a breach of a conciliation agreement.

B. Conciliation Agreement Precludes Action: An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 8-5-6 of this chapter and without regard to the status of any such complaint, but if the commission or the Iowa civil rights commission has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

C. Administrative Hearing Precludes Civil Action: An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice if an administrative law judge has commenced a hearing on the record under this chapter with respect to such charge.

D. Appointment Of Attorney By Court: Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may:

1. Appoint an attorney for such person.

2. Authorize the commencement or continuation of a civil action under subsection A of this section without the payment of fees, costs, or security if in the opinion of the court such person is financially unable to bear the costs of such action.

E. Relief Which May Be Granted:

1. In a civil action under subsection A of this section, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages and, subject to subsection F of this section, may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate.

2. In a civil action under subsection A of this section, the court, in its discretion, may allow the prevailing party reasonable attorney fees and costs.

F. Effect On Certain Sales, Encumbrances And Rentals: Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the filing of a complaint or civil action under this chapter.

G. Intervention By City Attorney's Office: Upon timely application, the city attorney's office may intervene in such civil action, if the city attorney's office certifies that the case is of general public importance. Upon such intervention, the city attorney's office may obtain such relief as would be available to the city attorney's office under section 8-5-13 of this chapter in a civil action to which such section applies.

8-5-13: ENFORCEMENT BY CITY ATTORNEY'S OFFICE:

A. Probable Cause: On the request of the commission, the city attorney's office may file a civil action in the district court for appropriate relief if the commission has probable cause to believe that any of the following applies:

1. A person is engaged in a pattern or practice of resistance to the full enjoyment of any housing right granted by this chapter.

2. A person has been denied any housing right granted by this chapter and that denial raises an issue of general public importance.

B. Legal Action; Enforcement: The commission may request the city attorney's office to take appropriate legal action of a discriminatory housing practice or to enforce a conciliation agreement.

1. The city attorney's office may commence a civil action in any appropriate court for appropriate relief with respect to a discriminatory housing practice referred to the city attorney's office.

2. A civil action under this subsection may be commenced no later than the expiration of the two (2) years after the date of the occurrence of the termination of the alleged discriminatory housing practice as provided in section 216.16A of the code of Iowa.

3. The city attorney's office may commence a civil action in any appropriate court for appropriate relief with respect to breach of a conciliation agreement referred to the city attorney's office by the commission.

4. A civil action may be commenced under this subsection no later than the expiration of ninety (90) days after the referral of the alleged breach under subsection 8-5-6C of this chapter.

5. The city attorney's office, on behalf of the commission or other party at whose request a subpoena is issued under this chapter, may enforce such subpoena in

appropriate proceedings in the district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

6. Relief may be granted in civil actions under subsections A and B of this section in accordance with section 216.17A of the code of Iowa. In a civil action under subsection A or B of this section, the court:

a. May award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this chapter as is necessary to assure the full enjoyment of the rights granted by this chapter.

b. May award such other relief as the court deems appropriate, including monetary damages to the person aggrieved.

c. May, to vindicate the public interest, assess a civil penalty against the respondent:

(1) In an amount not exceeding fifty thousand dollars (\$50,000.00) for a first violation.

(2) In an amount not exceeding one hundred thousand dollars (\$100,000.00) for any subsequent violation.

C. Attorney Fees And Costs: In a civil action under this section, the court, in its discretion, may allow the prevailing party reasonable attorney fees and costs.

D. Intervention In Civil Actions: Upon timely application, any person may intervene in a civil action commenced by the city attorney's office under subsection A or B of this section, which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 8-5-12 of this chapter.

8-5-14: COOPERATION WITH STATE AND FEDERAL AGENCIES:

The commission may cooperate with state and federal agencies charged with the administration of state and federal fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, in furtherance of such cooperative efforts, the commission may enter into written agreements with such state or federal agencies.

8-5-15: INTERFERENCE, COERCION OR INTIMIDATION; ENFORCEMENT BY CIVIL ACTION:

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of such person having aided or encouraged any

other person in the exercise or enjoyment of, any right granted or protected by this chapter.

8-5-16: VIOLATIONS; BODILY INJURY; DEATH; PENALTIES:

Whoever, whether or not acting under color of law, by force or threat of force wilfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with the following described persons shall be referred to the county attorney's office for prosecution:

A. Any person because of such person's race, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation, ~~or gender identity~~ and because such person is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings.

B. Any person because such person is or has been, or in order to intimidate such person or any other person or any class of persons from:

1. Participating, without discrimination on account of race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation, ~~or gender identity~~ in the activities, services, organizations, or facilities described in subsection A of this section.

2. Affording another person or class of persons opportunity or protection so to participate.

C. Any citizen because such person is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation, ~~or gender identity~~ in any of the activities, services, organizations, or facilities described in subsection A of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.

8-5-17: DISCLAIMER OF PREEMPTIVE EFFECT:

Nothing in this chapter limits any right, procedure, or remedy available under the federal or state constitution.

TO: The Honorable Mayor and City Council Members

FROM: Michael C. Van Milligen, City Manager

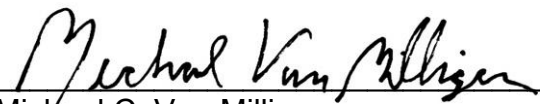
SUBJECT: Recommendation to Update Human Rights Ordinance, Title 8

DATE: July 2, 2025

Chief of Human Rights Dr. Gisella Aitken-Shadle is recommending City Council approve an amendment to the City of Dubuque Code of Ordinances Title 8 Equity and Human Rights by repealing Title 8 Equity and Human Rights and adopting in lieu therefore a new Title 8 Human Rights.

On May 19, 2025, Iowa Senate File 311 was signed into law requiring the repeal of Title 8 Equity and Human Rights. City Attorney Crenna Brumwell updated and revised the text as necessary to be in compliance with the state law that becomes effective August 16, 2025, requiring the repeal of Title 8 Equity and Human Rights and adoption of the new Title 8 Human Rights.

I concur with the recommendation and respectfully request Mayor and City Council approval.


Michael C. Van Milligen

MCVM:sv
Attachment

cc: Crenna Brumwell, City Attorney
Cori Burbach, Assistant City Manager
Dr. Gisella Aitken-Shadle, Chief of Human Rights

TO: Michael Van Milligen, City Manager
FROM: Dr. Gisella M. Aitken-Shadle, Chief of Human Rights
SUBJECT: Recommendation to Update Human Rights Ordinance, Title 8, and
Department Name Change
DATE: July 1, 2025

INTRODUCTION

The purpose of this memo is to recommend updating the City of Dubuque Code of Ordinances, specifically Title 8 Equity and Human Rights. The recommendation includes repealing the current Title 8 Equity and Human Rights and adopting a new Title 8 Human Rights. Additionally, it suggests changing the name of the Office of Equity and Human Rights and updating the titles of its employees.

BACKGROUND

On May 19, 2025, Iowa Senate File 311 was signed into law requiring the repeal of Title 8 Equity and Human Rights.

DISCUSSION

City Attorney Crenna Brumwell updated and revised the text as necessary to be in compliance with the state law that becomes effective August 16, 2025, requiring the repeal of Title 8 Equity and Human Rights and adoption of the new Title 8 Human Rights.

Therefore, it also affects the department name of the Office of Equity and Human Rights and the job titles of its employees, necessitating the adoption of new titles for the office and for the employees.

REQUESTED ACTION

The Office of Equity and Human Rights is recommending that the attached version of Title 8 Equity and Human Rights be adopted.

Also, the Office of Equity and Human Rights is recommending a department name change to the Office of Human Rights, along with changes to the job titles of its

employees:

- Chief of Equity and Human Rights to Chief of Human Rights for Dr. Gisella M. Aitken-Shadle
- Equity and Human Rights Specialist to Human Rights Specialist for Ann Marie Jannette

ATTACHMENT

Title 8 New Version 6-30-25

CC

Crenna Brumwell, City Attorney

ORDINANCE NO. _____ - 25

AMENDING CITY OF DUBUQUE CODE OF ORDINANCES TITLE 8 EQUITY AND HUMAN RIGHTS BY REPEALING TITLE 8 EQUITY AND HUMAN RIGHTS AND ADOPTING IN LIEU THEREOF A NEW TITLE 8 HUMAN RIGHTS

WHEREAS, Iowa Senate File 311 was signed into law on May 19, 2025; and

WHEREAS, the State law becomes effective August 16, 2025 requiring the repeal of Title 8 Equity and Human Rights and adoption of the new Title 8 Human Rights.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF COUNCIL OF THE CITY OF DUBUQUE, IOWA:

8-1-1: DEFINITIONS:

When used in this title, the following terms shall have the meanings ascribed herein unless the context otherwise requires:

AUXILIARY AIDS AND SERVICES: A. Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

B. Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments.

C. Acquisition or modification of equipment or devices.

D. Other similar services and actions.

COMMISSION: The Dubuque human rights commission created by chapter 2 of this title.

COURT: The Iowa district court in and for Dubuque County.

COVERED ENTITY: An employer, employment agency, labor organization, or joint labor management committee.

DIRECT THREAT: A significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

DISABILITY: With respect to an individual:

A. A physical or mental impairment that substantially limits one or more major life activities of such individual and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome related complex, or any other condition related to acquired immune deficiency syndrome. The inclusion of a condition related to a positive human immunodeficiency virus test results, in the meaning of "disability" under the provisions of this title, does not preclude the application of the provisions of this title to conditions resulting from other contagious or infectious diseases.

As described, major life activities:

1. 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, and working.

2. Also include 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.

B. A record of such an impairment.

C. Being regarded as having such an impairment, as described:

1. An individual meets the requirement of being regarded as having such an impairment if the individual establishes that he or she has 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.

2. This provision shall not apply to impairments that are transitory and minor. A "transitory impairment" is an impairment with an actual or expected duration of six (6) months or less.

D. The definition of "disability" shall be construed in accordance with the following:

1. In favor of broad coverage of individuals under this title, to the maximum extent permitted by the terms of this title.

2. "Substantially limits" shall be interpreted consistently with the findings and purposes of the ADA amendments act of 2008.

3. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

4. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

5. a. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:

- (1) Medication, medical supplies, equipment, appliances, low vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies.

- (2) Use of assistive technology.

- (3) Reasonable accommodations or auxiliary aids or services.

- (4) Learned behavioral or adaptive neurological modifications.

b. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

c. As used in this section:

(1) "Ordinary eyeglasses" or "contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error.

(2) "Low vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

DRUG: A controlled substance, as defined in the code of Iowa.

EMPLOYEE: An individual employed by an employer.

EMPLOYER: The state or any political subdivision, board, commission, department, institution, or school district thereof, and every other person employing employees within the state.

EMPLOYMENT AGENCY: Any person undertaking to procure employees or opportunities to work for any other person or any person holding such person or itself to be equipped to do so.

FAMILIAL STATUS: A. One or more individuals who have not attained the age of eighteen (18) years being domiciled with:

1. A parent or other person having legal custody of such individual or individuals.
2. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

B. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

LABOR ORGANIZATION: Any organization which exists for the purpose, in whole or in part, of collective bargaining, dealing with employees concerning grievances, terms, or conditions of employment, or other mutual aid or protection in connection with employment.

PERSON: An individual, partnership, association, corporation, legal representative, trustee, receiver, any other legal entity, and the state and all political subdivisions and agencies thereof.

PUBLIC ACCOMMODATION: A. Each and every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods for a fee or charge to nonmembers of any organization or association utilizing the place, establishment, or facility; provided, that any place, establishment, or facility that caters or offers services, facilities, or goods to the nonmembers gratuitously shall be deemed a "public accommodation", if the accommodation receives any governmental support or subsidy.

B. "Public accommodation" shall not mean any bona fide private club or other place, establishment, or facility which is by its nature distinctly private, except when such distinctly private place, establishment, or facility caters or offers services, facilities, or goods to the nonmembers for a fee or charge or gratuitously, it shall be deemed a "public accommodation" during such period.

C. "Public accommodation" includes each state and local government unit or tax supported district of whatever kind, nature, or class that offers services, facilities, benefits, grants, or goods to the public, gratuitously or otherwise. This definition shall not be construed by negative implication or otherwise to restrict any part or portion of the preexisting definition.

QUALIFIED INDIVIDUAL WITH A DISABILITY: With respect to chapter 3, article A of this title, an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

READILY ACHIEVABLE: Easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

A. The nature and cost of the action needed under this title.

B. The overall financial resources of the facility or facilities involved in the action, the number of persons employed at such facility, and the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility.

C. The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees, and the number, type and location of its facilities.

D. The type of operation or operations of the covered entity, including the composition, structure, and functions of the work force of such entity and the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

REASONABLE ACCOMMODATION: A. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities.

B. Job restructuring, part time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

SEXUAL ORIENTATION: A person's actual, history of, or perceived heterosexuality, homosexuality, or bisexuality but not including participation in conduct that is prohibited by law.

STATE: Each of the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

UNDUE HARDSHIP: An action requiring significant difficulty or expense. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:

- A. The nature and cost of the accommodation needed under this title.
- B. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility.
- C. The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees, and the number, type, and location of its facilities.
- D. The type of operation or operations of the covered entity including the composition, structure, and functions of the work force of such entity and the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

UNFAIR PRACTICE OR DISCRIMINATORY PRACTICE: Those practices specified as unfair or discriminatory in chapters 3 and 5 of this title.

8-2-1: COMMISSION CREATED:

There is hereby created the human rights commission.

8-2-2: PURPOSE:

The purpose of the commission is to hold hearings, compel the production of evidence, and determine the merits of complaints alleging unfair or discriminatory practices in housing, employment, education, credit, or places of public accommodation; to investigate and study the existence, character, causes, and extent of discrimination and to attempt to eliminate discrimination by educating the public and promoting human rights in the community; and to take action in the community to promote respect and community belonging and to eliminate discrimination based on age, race, creed, color, sex, national origin, religion, ancestry, disability, marital status, familial status, or sexual orientation.

8-2-3: INTERNAL ORGANIZATION AND RULES:

The commission may adopt rules and regulations to govern its organizational procedures as may be necessary and which are not in conflict with this code or the Iowa Code.

8-2-4: PROCEDURES FOR OPERATION:

All administrative, personnel, accounting, budgetary, and procurement policies of the city govern the commission in all its operations.

8-2-5: MEMBERSHIP:

The commission comprises nine (9) residents of the city, appointed by the city council with representation from various sectors of the community, including those protected from discrimination under this ordinance.

8-2-6: OATH:

Each person, upon appointment to the commission, must execute an oath of office at the first meeting of the commission following the appointment or at the city clerk's office any time prior to the first meeting of the commission.

8-2-7: TERMS:

The term of office for commissioners is three (3) years or until such commissioner's successor is appointed and qualified.

8-2-8: VACANCIES:

Vacancies must be filled in the same manner as original appointments.

8-2-9: OFFICERS; ORGANIZATION:

The commissioners must choose annually a chairperson and vice chairperson, each to serve a term of one year. A staff member shall serve as secretary. The commissioners must fill a vacancy among its officers for the remainder of the officer's unexpired term.

8-2-10: MEETINGS:

- A. Regular Meetings: The commission must meet monthly.
- B. Special Meetings: Special meetings may be called by the chairperson or at the written request of a majority of the commissioners.
- C. Open Meetings: All meetings must be called and held in conformance with the Iowa open meetings law.
- D. Attendance:
 - 1. In the event a commissioner has been absent for three (3) or more consecutive meetings of the commission, without being excused by the chairperson, such absence will be grounds for the commission to recommend to the city council that the position be declared vacant and a replacement appointed.
 - 2. Attendance must be entered upon the minutes of all meetings.
- E. Minutes: A copy of the minutes of all regular and special meetings of the commission must be filed with the city council within ten (10) working days after approval by the commission, or by the next regularly scheduled city council meeting, whichever is later.
- F. Quorum: Five (5) commissioners constitute a quorum for the transaction of business. The affirmative vote of a majority of the commissioners present and voting is necessary for the adoption of any motion or resolution.

8-2-11: COMPENSATION:

Commissioners serve without compensation, provided that they may receive reimbursement for necessary travel and other expenses while on official commission business within the limits established in the city administrative policies and budget.

8-2-12: REMOVAL:

The city council may remove any commissioner for cause upon written charges and after public hearing.

8-2-13: POWERS:

The commission serves in an advisory capacity to the City Council and has the following powers, duties, and responsibilities:

A. To investigate and study the existence, character, causes, and extent of discrimination in public accommodations, employment, apprenticeship programs, on the job training programs, vocational schools, other educational institutions, and housing in the city and to attempt the elimination of such discrimination through education, conciliation, and recommended changes to policy and practice.

B. To hold hearings upon any complaint made against a person, an employer, an employment agency, a labor organization, or the employees or members thereof, to subpoena witnesses and compel their attendance at such hearings, to administer oaths and take the testimony of any person under oath and to compel such person, employer, employment agency, labor organization, or employees or members thereof, to produce for examination any books and papers relating to any matter involved in such complaint. The commission will issue subpoenas for witnesses in the same manner and for the same purpose on behalf of the respondent upon the respondent's request. Such hearings may be held by the commission, by any commissioner, or by any hearing examiner appointed by the commission. If a witness either fails or refuses to obey a subpoena issued by the commission, the commission may petition the district court having jurisdiction for issuance of a subpoena and the court must, in a proper case, issue the subpoena. Refusal to obey such subpoena is subject to punishment for contempt.

C. To develop recommendations for actions to strengthen policies, practices, services and programs that will, in the judgment of the commission, promote equitable and inclusive behavior that tends to eliminate discrimination.

D. To prepare and transmit to the Mayor and City Council from time to time, but not less often than once each year, reports describing its proceedings, hearings conducted, and the outcome thereof, decisions rendered, and the other work performed by the commission.

E. To make recommendations to the City Council concerning the promotion and advancement of respect and belonging in the community and addressing discrimination in order to improve quality of life and livability for all residents.

F. To cooperate, within the limits of any appropriations made for its operation, with other agencies or organizations, both public and private, whose purposes are consistent with those of this chapter, in the planning and conducting of programs designed to advance respect and belonging, eliminate discrimination, or community tensions.

G. To adopt, publish, amend, and rescind regulations consistent with and necessary for the civil rights enforcement provisions of this chapter.

H. To receive, administer, dispense, and account for any restricted funds that may be voluntarily contributed to the commission and any grants that may be awarded the commission for furthering the purposes of this title. No disbursements will be made of any restricted funds without authority from the City Council.

8-2-14: RECORDS TO BE PUBLIC; EXCEPTIONS:

All records of the commission are public except charges, complaints, reports of investigations, statements, and other documents or records obtained in investigation of any charges.

8-2-15: CONFIDENTIALITY OF COMPLAINTS:

No member of the commission or its staff will disclose the filing of a charge, the information gathered during the investigation, or the endeavors to eliminate such discriminatory or unfair practice by conference, conciliation, or persuasion unless such disclosure is made in connection with the conduct of such investigation or after the commission has held a public hearing upon a complaint filed in connection with such charge. This section does not prevent any complainant, witness, or other person from publicizing the filing of a charge or complaint or the matter therein complained of.

8-2-16: SUBPOENAS:

The commission may issue subpoenas and order discovery in aid of investigations under this title. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply for county attorney subpoenas.

8-3-1: GENERALLY:

A. Aiding Or Abetting: It shall be an unfair or discriminatory practice for:

1. Any person to intentionally aid, abet, compel, or coerce another person to engage in any of the practices declared unfair or discriminatory by this title.

2. Any person to discriminate against another person in any of the rights protected against discrimination on the basis of race, creed, color, sex, national origin, familial status, religion, age, disability, marital status, or sexual orientation by this chapter because such person has lawfully opposed any practice forbidden under this chapter, obeys the provisions of this chapter, or has filed a complaint, testified, or assisted in any proceeding under this title.

3. Any person to discriminate against another person because of the person's relationship or association with a person protected under this title.

B. Sex And Age Discrimination Provisions Not Applicable To Retirement Plans; Exception: The provisions of this title relating to discrimination because of sex or age shall not be construed to apply to any retirement plan or benefit system of any employer unless such plan or system is a mere subterfuge adopted for the purposes of evading the provisions of this title.

1. However, a retirement plan or benefit system shall not require the involuntary retirement of a person because of that person's age.

2. A health insurance program provided by an employer may exclude coverage of abortion, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.

3. An employee welfare plan may provide life, disability, or health insurance benefits which vary by age based on actuarial differences if the employer contributes equally for all the participating employees or may provide for employer contributions differing by age if the benefits for all the participating employees do not vary by age.

C. Sexual Harassment Victim Protection: Evidence concerning the past sexual behavior of an alleged victim of sexual harassment shall not be admissible in any proceeding before the human rights commission.

8-3-2: ACCOMMODATIONS OR SERVICES:

A. Prohibited Practices: It shall be an unfair or discriminatory practice for any owner, lessee, sublessee, proprietor, manager, or superintendent of any public accommodation or any agent or employee thereof:

1. To refuse or deny to any person because of race, creed, color, sex, age, national origin, religion, or sexual orientation the accommodations, advantages, facilities, services, or privileges thereof, or otherwise to discriminate against any person because of race, creed, color, sex, age, national origin, religion, or sexual orientation in the furnishing of such accommodations, advantages/facilities, services, or privileges.

2. To directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons of any particular race, creed, color, sex, age, national origin, religion, or sexual orientation is unwelcome, objectionable, not acceptable, or not solicited.

B. Exemptions: This section shall not apply to:

1. Any bona fide religious institution with respect to any qualifications the institution may impose based on religion when such qualifications are related to a bona fide religious purpose.

2. The rental or leasing to transient individuals of less than four (4) rooms within a single housing accommodation if the occupant or owner or members of the owner's or occupant's family reside therein.

3. Discounts for services or accommodations based upon age.

8-3-3: EMPLOYMENT PRACTICES:

A. Prohibited Practices: It shall be an unfair or discriminatory practice for any:

1. Person to refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the race, creed, color, sex, age, national origin, religion, or sexual orientation of such applicant or employee, unless based upon the nature of the occupation.

2. Labor organizations or the employees, agents, or members thereof to refuse to admit to membership any applicant, to expel any member, or to otherwise discriminate

against any applicant for membership or any member in the privileges, rights, or benefits of such membership because of the race, creed, color, sex, age, national origin, religion, or sexual orientation of such applicant or member.

3. Employer, employment agency, labor organization, or the employees, agents, or members thereof, to directly or indirectly advertise or in any other manner indicate or publicize that individuals of any particular race, creed, color, sex, age, national origin, religion, or sexual orientation are unwelcome, objectionable, not acceptable, or not solicited for employment or membership, unless based upon the nature of the occupation.

B. Exemptions:

1. The prohibition by this section of discrimination based on sexual orientation shall not apply to any bona fide religious institution with respect to any qualifications for employment by such institution.

2. This section shall not apply to:

a. Any employer who regularly employs less than four (4) individuals. For purposes of this subsection, the owners, owners' spouses, and children shall not be counted as employees.

b. The employment of individuals for work within the home of the employer if the employer or members of the employer's family reside therein during such employment.

c. The employment of individuals to render personal service to the person of the employer or members of the employer's family.

d. Any bona fide religious institution or its educational association, corporation, or society with respect to any qualifications for employment based on religion when such qualifications are related to a bona fide religious purpose. A religious qualification for instructional, personnel, or administrative officer serving in a supervisory capacity of a bona fide religious educational facility or religious institution shall be presumed to be a bona fide occupational qualification.

e. Discrimination on the basis of age if the person subject to the discrimination is under the age of eighteen (18) years, unless that person is considered by law to be an adult.

f. A State or Federal program designed to benefit a specific age classification which serves a bona fide public purpose.

8-3-4: CREDIT:

It shall be an unfair or discriminatory practice for any:

A. Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds and current situations because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, sexual orientation, or familial status.

B. Person authorized or licensed to do business in this State pursuant to chapters 524, 533, 534, 536, or 536A of the Code of Iowa to refuse to loan or extend to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, sexual orientation, or familial status.

C. Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability, sex, sexual orientation, or familial status. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or physical disability of the consumer shall not be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by the Code of Iowa or United States Code.

D. The provisions in this section shall not be construed by negative implications or otherwise to narrow or restrict any other provisions of this title.

8-3-5: EDUCATION:

A. Prohibited Practices; Exceptions:

1. It is an unfair or discriminatory practice for any educational institution to discriminate on the basis of race, creed, color, sex, national origin, religion, disability, or sexual orientation in any program or activity. Such discriminatory practices shall include, but not be limited to, the following practices:

a. Exclusion of a person or persons from participation in, denial of the benefits of, or subject to discrimination in any academic, research, occupational training, or other program or activity except athletic programs.

b. Denial of comparable opportunity in intramural and interscholastic athletic programs.

c. Discrimination among persons in employment and the conditions of employment.

d. On the basis of sex, the application of any rule concerning the actual or potential parental, family, or marital status of a person or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions dependent upon the physician's diagnosis and certification.

2. For the purposes of this section, "educational institution" includes any preschool, elementary, secondary, or community college, area education agency, postsecondary college or university, and their governing boards. This section does not prohibit an educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided. Nothing in this subsection shall be construed as prohibiting any bona fide religious institution from imposing qualifications based on religion when such qualifications are related to a bona fide religious purpose or any institution from admitting students of only one sex.

B. Examinations And Courses: Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a

place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

8-3A-1: EMPLOYMENT PROHIBITED PRACTICES:

A. General Rule: No person shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

B. Construction: As used in subsection A of this section, the term "discriminate against an individual on the basis of disability" includes:

1. Limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee.

2. Participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title. Such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs.

3. Utilizing standards, criteria, or methods of administration:

a. That have the effect of discrimination on the basis of disability.

b. That perpetuate the discrimination of others who are subject to common administrative control.

4. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association.

5. Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity, or denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant.

6. Using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard test or other selection criteria, as used by the covered entity, is shown to be job related for the position in question and is consistent with business necessity.

7. Failing to select and administer tests concerning employment in the most effective manner to ensure that when such test is administered to a job applicant or employee who

has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant, except where such skills are the factors that the test purports to measure.

8. Soliciting or requiring as a condition of employment of any employee or prospective employee a test for the presence of the antibody to the human immunodeficiency virus or affecting the terms, conditions, or privileges of employment or terminating the employment of any employee solely as a result of the employee obtaining a test for the presence of the antibody to the human immunodeficiency virus. An agreement between an employer, employment agency, labor organization, or their employees, agents, or members and an employee or prospective employee concerning employment, pay, or benefits to an employee or prospective employee in return for taking a test for the presence of the antibody to the human immunodeficiency virus is prohibited. The prohibitions of this subsection do not apply if the state epidemiologist determines and the state director of public health declares through the utilization of guidelines established by the center for disease control of the United States department of health and human services that a person with a condition related to acquired immune deficiency syndrome poses a significant risk of transmission of the human immunodeficiency virus to other persons in a specific occupation.

C. Medical Examinations And Inquiries:

1. In General: The prohibition against discrimination as referred to in subsection A of this section shall include medical examinations and inquiries.

2. Preemployment:

a. Prohibited Examination Or Inquiry: Except as provided in subsection C3 this section, a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

b. Acceptable Inquiry: A covered entity may make preemployment inquiries into the ability of an applicant to perform job related functions.

3. Employment Entrance Examination: A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant and may condition an offer of employment on the results of such examination, if:

a. All entering employees are subjected to such an examination regardless of disability.

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

(1) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

(2) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

(3) Government officials investigating compliance with this chapter shall be provided relevant information on request.

c. The results of such examination are used only in accordance with this chapter.

4. Examination And Inquiry:

a. Prohibited Examinations And Inquiries: A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job related and consistent with business necessity.

b. Acceptable Examinations And Inquiries: A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at the work site. A covered entity may make inquiries into the ability of an employee to perform job related functions.

c. Requirement: Information obtained under subsection C4b of this section regarding the medical condition or history of any employee is subject to the requirements of subsections C3b and C3c of this section.

8-3A-2: DEFENSES, EXEMPTIONS AND EXCLUSIONS:

A. Defenses:

1. In General: It may be a defense to a charge of discrimination under this article that an alleged application of qualification standards, tests, or selection criteria that screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

2. Qualification Standards: The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

3. Qualification Standards And Tests Related To Uncorrected Vision: Notwithstanding the provisions under the definition of "disability" in section 8-1-1 of this title, a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job related and consistent with business necessity.

4. Reasonable Accommodation And Good Faith Effort: In cases where a discriminatory practice involves the provision of a reasonable accommodation pursuant to this subsection, actual damages other than damages for back pay may not be awarded under this title where the covered entity proves, by a preponderance of the evidence, good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable

accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

5. List Of Infectious And Communicable Diseases:

a. Applications: In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food that is included on the list developed by the secretary of health and human services under 42 USC 12113(d) and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

b. Construction: Nothing in this article shall be construed to preempt, modify, or amend any local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the secretary of health and human services.

B. Exemptions: This article shall not apply to:

1. Any employer who regularly employs less than four (4) individuals. For purposes of this subsection, the owner(s), the owner(s)' spouse(s), and children shall not be counted as employees.

2. The employment of individuals for work within the home of the employer if the employer or members of the employer's family reside therein during such employment.

3. The employment of individuals to render personal service to the person of the employer or members of the employer's family.

4. An employer's qualifications for a job may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

C. Exclusions: For purposes of the definition of "disability" in section 8-1-1 of this title, the following are not impairments and as such are not disabilities under this article:

1. Homosexuality, bisexuality, not resulting from physical impairments;
2. Pedophilia, exhibitionism, voyeurism, or other sexual behavior disorders;
3. Compulsive gambling, kleptomania, or pyromania; or
4. Psychoactive substances use disorders resulting from current illegal use of drugs.

8-3A-3: CONSTRUCTION:

A. Insurance:

1. This title shall not be construed to prohibit or restrict:

a. An insurer, hospital, or medical service company, health maintenance organization, or any agent or entity that administers benefit plans or similar organizations

from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with other laws of this state.

b. A person or organization covered by this title from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with other laws of this state.

c. A person or organization covered by this title from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that is subject to the laws of this state that regulate insurance.

2. Subsection A1 of this section shall not be used as subterfuge to evade the purposes of this title.

B. Accommodations And Services: Nothing in this title shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

C. Smoking: Nothing in this article shall be construed to preclude the prohibition of or the imposition of restrictions on smoking in places of employment or in public accommodations.

8-3A-4: ILLEGAL USE OF DRUGS AND ALCOHOL:

A. Qualified Individual With A Disability: For purposes of this article, a qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

B. Rules Of Construction: Nothing in subsection A of this section shall be construed to exclude as a qualified individual with a disability an individual who:

1. Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use.

2. Is participating in a supervised rehabilitation program and is no longer engaging in such use.

3. Is erroneously regarded as engaging in such use, but is not engaging in such use; except that it shall not be a violation of this title for a covered entity to adopt or administer reasonable policies or procedures including, but not limited to, drug testing designed to ensure that an individual described in subsection B1 or B2 of this section is no longer engaging in the illegal use of drugs. However, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

C. Authority Of Covered Entity: A covered entity:

1. May prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees.

2. May require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace.

3. May hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee.

D. Drug Testing:

1. In General: For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

2. Construction: Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

E. Governmental Regulations: Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Iowa department of transportation or any other state or federal agency of authority to:

1. Test employees of such entities in, and applicants for, positions involving safety sensitive duties for the illegal use of drugs and for on duty impairment by alcohol.

2. Remove such persons who test positive for illegal use of drugs and on duty impairment by alcohol pursuant to subsection E1 of this section from safety sensitive duties in implementing subsection C of this section.

8-3A-5: PUBLIC ACCOMMODATIONS; PROHIBITED PRACTICES:

A. It shall be an unfair or discriminatory practice for any person on the basis of disability to refuse or deny full and equal enjoyment of the goods, services, facilities, privileges, advantages, or other public accommodations.

B. It shall be an unfair or discriminatory practice not to afford an individual or class of individuals on the basis of disability the full and equal enjoyment of a facility in an integrated setting appropriate to the needs of the individual.

C. It shall be an unfair or discriminatory practice for any person to discriminate against an individual or class of individuals in any of the following:

1. It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, accommodation, or other opportunity that is as effective as that provided to others.

2. Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied

the opportunity to participate in such programs or activities that are not separate or different.

3. A public accommodation shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration:

a. That have the effect of discriminating on the basis of disability.

b. That perpetuate the discrimination of others who are subject to common administrative control.

4. It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to a person because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

D. For purposes of subsection A of this section, discrimination includes:

1. The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered.

2. A failure to make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.

3. A failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the goods, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden.

4. A failure to remove architectural barriers and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of hydraulic or other lift), where such removal is readily achievable.

5. Where an entity can demonstrate that the removal of a barrier under subsection D4 this section is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

E. Nothing in this section shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages, and

accommodations of such entity where such individual poses a direct threat to the health or safety of others.

8-3A-6: NEW CONSTRUCTION AND ALTERATION OF PUBLIC ACCOMMODATIONS:

A. It shall be an unfair or discriminatory practice for any person on the basis of disability to:

1. Fail to design and construct all public accommodations built after September 1, 1996, so that they are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet such requirements.

2. With respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope.

B. Subsections A1 and A2 of this section shall not be construed to require the installation of an elevator for facilities that are less than three (3) stories or have less than three thousand (3,000) square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a healthcare provider.

8-4-1: FILING COMPLAINTS:

A. Filing Of Verified, Written Complaint: All persons claiming to be aggrieved by a discriminatory or unfair practice within this city may sign and file with the commission a verified, written complaint in triplicate which shall state the name and address of the person alleged to have committed the discriminatory or unfair practice of which complained, shall set forth the particulars thereof, and shall contain such other information as may be required by the commission. The commission, a commissioner, or the city attorney's office may in like manner sign and file such complaint.

B. Protection Of Person's Identity: A person who has tested positive for human immunodeficiency virus or who has a diagnosis of acquired immune deficiency syndrome or a person who is perceived to have human immunodeficiency virus or acquired immune deficiency may file a disability charge utilizing "John Doe", "Jane Doe", or a coded number to protect the person's identity. The name of the charging party shall be disclosed to the respondent. It shall be a discriminatory practice for any person to disclose the name of the coded person or information that would lead to that person's identity.

8-4-2: AMENDMENTS OF COMPLAINTS:

The commission or the complainant shall have the power to reasonably and fairly amend any complaint and the respondent shall have like power to amend such respondent's answer at any time prior to hearing.

8-4-3: TIME LIMITATION FOR FILING COMPLAINT:

A. A claim under this title shall not be maintained unless a complaint is filed with the commission within three hundred (300) days after the alleged discriminatory or unfair practice occurred.

B. For purposes of this section, an unlawful employment practice occurs, with respect to discrimination in compensation in violation of this title, when a discriminatory compensation decision or other practice is adopted, when an individual becomes subject to a discriminatory compensation decision or other practice, or when an individual is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.

8-4-4: COMMISSION STAFF PROCEEDINGS ON COMPLAINTS:

A. Notice To Respondent: After the filing of a verified complaint, a true copy shall be served within twenty (20) days by personal service, certified mail, or overnight mail with tracking to ensure service, on the person against whom the complaint is filed.

B. Screening: The director shall review each complaint and is authorized to administratively close a case when the city manager finds any of the following:

1. Lack of jurisdiction.
2. Minimal impact on civil rights in the community.
3. Further processing is not warranted.

C. Investigation By Staff; Probable Cause Determination By Administrative Law Judge: An authorized member of the commission shall make a prompt investigation and shall issue a recommendation to an administrative law judge under the jurisdiction of the commission, who shall then issue a determination of probable cause or no probable cause.

1. For purposes of this chapter, an administrative law judge issuing a determination of probable cause or no probable cause under this section shall be exempt from section 17A.17 of the code of Iowa.

2. If the administrative law judge concurs with the investigating official that probable cause exists regarding the allegations of the complaint, the staff of the commission shall promptly endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion. If the administrative law judge finds that no probable cause exists, the administrative law judge shall issue a final order dismissing the complaint and the commission shall promptly mail a copy to the complainant and to the respondent by certified mail.

A finding of probable cause shall not be introduced into evidence in an action brought under section 8-4-7 of this chapter.

D. Conciliation Conference And Persuasion Procedures: The commission staff must endeavor to eliminate the discriminatory or unfair practice by conciliation conference and persuasion for a period of thirty (30) days following the initial conciliation meeting between the respondent and the commission staff after a finding of probable cause. After the expiration of thirty (30) days, the city manager may order the conciliation conference and persuasion procedure provided in this section to be bypassed when the city manager determines the procedure is unworkable by reason of past patterns and practices of the respondent or a statement by the respondent that the respondent is unwilling to continue with the conciliation. Upon the bypassing of conciliation, the city manager shall state in writing the reasons for bypassing.

8-4-5: COMMISSION PROCEEDINGS UPON FAILURE TO REACH SETTLEMENT BY CONCILIATION:

A. Notice Of Hearing: When the city manager is satisfied that further endeavor to settle a complaint by conference, conciliation, and persuasion is unworkable and should be bypassed and the thirty (30) day period provided for in section 8-4-4 of this chapter has expired without agreement, the city manager, with the approval of a commissioner, shall issue and cause to be served a written notice:

1. Specifying the charges in the complaint as they may have been amended and the reasons for bypassing further conciliation.
2. Requiring the respondent to answer the charges of the complaint at a hearing before the commission, a commissioner, or a person designated by the commission to conduct the hearing, hereafter referred to as the administrative law judge.
3. Specifying a time and place.

B. Participation Of Commission Personnel: The case in support of such complaint shall be presented at the hearing by one of the commission's attorneys or agents. The investigating official shall not participate in the hearing except as a witness, nor shall the official participate in the deliberations of the commission in such case.

C. Conduct Of Hearing: The hearing shall be conducted in accordance with the provisions of chapter 17A of the code of Iowa for contested cases. The burden of proof in such a hearing shall be on the commission.

D. Proposed Order By Hearing Panel Or Judge: In the case of a proposed order by a hearing panel or administrative law judge, the commission may review such proposed order within sixty (60) days. If the commission fails to review such proposed order within sixty (60) days, the proposed order shall become the final order of the commission.

8-4-6: COMMISSION ORDERS:

A. Upon Finding Of Discriminatory, Unfair Practice: If, upon taking into consideration all of the evidence at a hearing, the commission determines that the respondent has engaged in a discriminatory or unfair practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take the necessary remedial action as in the judgment of the commission will carry out the purposes of this chapter. A

copy of the order shall be delivered to the respondent, the complainant, and to any other public officers and persons as the commission deems proper.

1. Remedial Actions: For the purposes of this subsection and pursuant to the provisions of this chapter, remedial action includes, but is not limited to, the following:

a. Hiring, reinstatement, or upgrading of employees with or without pay. Interim earned income and unemployment compensation shall operate to reduce the pay otherwise allowable.

b. Admission or restoration of individuals to a labor organization, admission to or participation in a guidance program, apprenticeship training program, on the job training program, or other occupational training or retraining program with the utilization of objective criteria in the admission of individuals to such programs.

c. Admission of individuals to a public accommodation or an education institution.

d. Sale, exchange, lease, rental, assignment, or sublease of real property to an individual.

e. Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent denied to the complainant because of the discriminatory or unfair practice.

f. Reporting as to the manner of compliance.

g. Posting notices in conspicuous places in the respondent's place of business in form prescribed by the commission and inclusion of notices in advertising material.

h. Payment to the complainant of damages for an injury caused by the discriminatory or unfair practice, which damages shall include, but are not limited to, damages and reasonable attorney fees.

i. Reimbursement to the commission for contested case costs.

2. Requirements To Cease And Desist Certifications To Licensing And Contracting Agencies: In addition to the remedies provided in the preceding provisions of this section, the commission may issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and may take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter as follows:

a. In the case of a respondent operating by virtue of a license issued by the state or a political subdivision or agency, if the commission, upon notice to the respondent with an opportunity to be heard, determines that the respondent has engaged in a discriminatory or unfair practice and that the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of such officer's or executive agent's employment, the commission shall so certify to the licensing agency. Unless the commission finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the licensing agency.

b. In the case of a respondent who is found by the commission to have engaged in a discriminatory or unfair practice in the course of performing under a contract or subcontract with the state or political subdivision or agency, if the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of such officer's or executive agent's employment, the commission shall so certify to the contracting agency. Unless the commission's finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the contracting agency.

B. Upon Hearing Finding Of No Discriminatory, Unfair Practice: If, upon taking into consideration all of the evidence at a hearing, the commission finds that a respondent has not engaged in any such discriminatory or unfair practice, the commission shall issue an order denying relief and stating the findings of fact and conclusions of the commission and shall cause a copy of the order dismissing the complaint to be served by regular mail on the complainant and the respondent.

C. Upon Conciliation Agreements:

1. The terms of a conciliation agreement reached with the respondent may require the respondent to refrain in the future from committing discriminatory or unfair practices of the type stated in the agreement, to take remedial action as in the judgment of the commission will carry out the purposes of this code, and to consent to the entry in an appropriate district court of a consent decree embodying the terms of the conciliation agreement. Violation of such a consent decree may be punished by contempt by the court in which it is filed upon a showing by the commission of the violation at any time within six (6) months of its occurrence. In all cases where a conciliation agreement is entered into, the commission shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent, and such other persons as the commission deems proper.

2. At any time, in its discretion, the commission may investigate whether the terms of the agreement are being complied with by the respondent. Upon a finding that the terms of the conciliation agreement are not being complied with by the respondent, the commission shall take appropriate action to assure compliance.

8-4-7: RELEASE FROM ADMINISTRATIVE PROCESS; ALTERNATIVE JUDICIAL PROCEEDINGS UPON COMPLAINTS:

A. Administrative Release: A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek an administrative relief by filing a complaint with the commission in accordance with section 8-4-1 of this chapter. A complainant, after the proper filing of a complaint with the commission, may subsequently commence an action for relief in the district court if all of the following conditions have been satisfied:

1. The complainant has timely filed the complaint with the commission as provided in section 8-4-3 of this chapter.

2. The complaint has been on file with the commission at least sixty (60) days and the commission has issued a release to the complainant pursuant to this section.

3. The complainant has requested an administrative release from the Iowa civil rights commission via the Dubuque human rights commission.

4. The complainant has received an administrative release from the Iowa civil rights commission.

B. Screening Of Complaint: It is the legislative intent of this section that every complaint be at least preliminarily screened during the first sixty (60) days. This subsection does not authorize administrative closures if an investigation is warranted.

8-4-8: PROVISIONAL REMEDIES:

If, any time after the filing of a complaint, it shall appear to the commission that there is reason to believe that the party charged has violated this chapter and there is reason to believe that the person charged is about to commit acts which would make impossible compliance with an order of the commission to alleviate the grievance, or it appears that a complainant may suffer irreparable injury as a result of alleged violation, the commission's attorney may seek a temporary injunction restraining the party charged from doing these acts pending completion of the proceedings under this chapter. A temporary injunction may be issued only after the respondent has been notified and afforded the opportunity to be heard, except that an ex parte temporary injunction may be issued when the complainant alleges housing discrimination.

8-4-9: JUDICIAL REVIEW; ENFORCEMENT ACTIONS:

A. Filing Petition For Judicial Review: Judicial review of the actions of the commission may be sought in accordance with the terms of the Iowa administrative procedure act 1. Notwithstanding the terms of such act, petition for judicial review may be filed in the district court in which an enforcement proceeding under subsection B of this section may be brought. For purposes of the time limit for filing a petition for judicial review under the Iowa administrative procedure act, the issuance of a final decision of the commission under this chapter occurs on the date notice of the decision is mailed by regular mail to the parties. Notwithstanding the time limit provided in section 17A.19, subsection 3 of the code of Iowa, a petition for judicial review of no probable cause decisions and other final agency actions which are not of general applicability must be filed within thirty (30) days of the issuance of the final agency action.

B. Order For Enforcement: The commission may obtain an order for the enforcement of commission orders in a proceeding as provided in this section. Such an enforcement proceeding shall be brought in the district court of the district in the county in which the alleged discriminatory or unfair practice which is the subject of the commission's order was committed, or in which any respondent required in the order to cease or desist from a discriminatory or unfair practice or take other affirmative action, resides or transacts business.

C. Transcript Of Record Of Hearing Filed With Court: Such an enforcement proceeding shall be initiated by the filing of a petition in such court and the service of a copy thereof upon the respondent. Thereupon, the commission shall file with the court a transcript of the record of the hearing before it. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript an order

enforcing, modifying, and enforcing as so modified, or setting aside the order of the commission, in whole or in part.

D. Consideration Of Objection: An objection that has not been urged before the commission shall not be considered by the court in an enforcement proceeding unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

E. Remission Of Case To Commission: Any party to the enforcement proceeding may move the court to remit the case to the commission in the interests of justice for the purposes of adducing additional specified and material evidence and seeking findings thereof, provided such party shall show reasonable grounds for the failure to adduce such evidence before the commission.

F. Determination Under State Statute: In the enforcement proceeding, the court shall determine its order on the same basis as it would in a proceeding reviewing commission action under section 17A.19 of the code of Iowa.

G. Availability Of Testimony: The commission's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the commission's orders.

H. Commission Attorney Appearance In Court: The commission may appear in court by its own attorney.

I. Expeditious Hearing On Petitions: Petitions filed under this section shall be heard expeditiously and determined upon the transcript filed without requirement for hearing.

J. Failure To Obtain Judicial Review: If no proceeding to obtain judicial review is instituted within thirty (30) days from the service of an order of the commission under section 8-4-6 of this chapter, the commission may obtain an order of the court for the enforcement of such order upon showing that respondent is subject to the jurisdiction of the commission and resides or transacts business within the county in which the petition for enforcement is brought.

8-4-10: RULE OF CONSTRUCTION:

This chapter shall be construed liberally to effectuate its purpose.

8-5-1: DEFINITIONS:

As used in this chapter:

AGGRIEVED PERSON: Any person who:

A. Claims to have been injured by discriminatory housing practice.

B. Believes that such person will be injured by a discriminatory housing practice that is about to occur.

COMPLAINANT: The person who files a complaint under section 8-5-6 of this chapter.

CONCILIATION: The attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the commission.

CONCILIATION AGREEMENT: A written agreement setting forth the resolution of the issues in conciliation.

DISCRIMINATORY HOUSING PRACTICE: An act that is unlawful under section 8-5-2, 8-5-4, or 8-5-5 of this chapter.

DWELLING: Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

FAMILY: A single individual.

PERSON: An individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint stock company, trust, unincorporated organizations, trustees, trustee in cases under title 11 of the United States code, receiver, fiduciary, or any other legal entity.

PREVAILING PARTY: The same as such term has in section 722 of the revised statutes of the United States (42 USC 1988).

RESPONDENT: A. The person or other entity accused in a complaint of an unfair housing practice.

B. Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under subsection 8-5-6A of this chapter.

SECRETARY: The U.S. secretary of housing and urban development.

STATE: The state of Iowa and any of its political subdivisions.

TO RENT: To lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant.

8-5-2: PROHIBITIONS:

It shall be unlawful:

A. To 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, a dwelling to any person because of race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation..

B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation..

C. To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation, or an intention to make any such preference, limitation, or discrimination.

D. To represent to any person because of race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or disabled persons of a particular race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation.

F. 1. To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of:

- a. That buyer or renter.
- b. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.
- c. Any person associated with that buyer or renter.

2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection with such dwelling, because of a disability of:

- a. That person.
- b. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.
- c. Any person associated with that person.

3. For purposes of this subsection, discrimination includes:

- a. A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter, agreeing to restore the interior of the premises to the condition that existed before 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 such person equal opportunity to use and enjoy a dwelling.

c. In connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:

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

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

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

(A) An accessible route into and through the dwelling.

(B) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

(C) Reinforcements in bathroom walls to allow later installation of grab bars.

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

4. Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for physically disabled persons (commonly cited as ANSI A117.1) suffices to satisfy the requirements of subsection F3c(3) of this section.

5. As used in this subsection, the term "covered multi-family dwellings" means:

a. Buildings consisting of four (4) or more units if such buildings have one or more elevators.

b. Ground floor units in other buildings consisting of four (4) or more units.

6. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

8-5-3: EXEMPTIONS:

A. Exemptions Enumerated: Nothing in section 8-5-2 of this chapter, other than subsection 8-5-2C of this chapter, shall apply to:

1. Any single-family house sold or rented by an owner; provided, that:

a. The private individual owner does not own more than three (3) such single-family houses at any one time.

b. In the sale of any single-family house, the private individual owner does not reside in, nor is the most recent resident of such house prior to such sale; the exemption granted by this subsection shall apply to only one such sale within a twenty four (24) month period.

c. The bona fide private individual owner does not own any interest in, nor is there owned or reserved on the owner's behalf, under express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at one time.

d. There is no utilization in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person.

e. There is no publication, posting, or mailing, after notice, of any advertisement or written notice in violation of subsection 8-5-2C of this chapter. Nothing in this subsection prohibits the utilization of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

B. Selling Or Renting Dwellings: For the purposes of subsection A of this section, a person shall be deemed to be in the business of selling or renting dwellings if:

1. The person has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein.

2. The person has, within the preceding twelve (12) months, participated as agent, other than in the sale of the person's own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein.

3. The person is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

C. Religious Or Nonprofit Organizations: Nothing in this chapter shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, familial status, national origin, creed, age, disability, or sexual orientation. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other occupancy of such lodging to its members or from giving preference to its members.

D. Applicability Of Housing Regulations; Housing For Older Persons:

1. Nothing in this chapter limits the applicability of title 14, chapter 1 of this code regarding the maximum number of occupants permitted to occupy a dwelling. Nor does

any provision in this chapter regarding familial status or age apply with respect to housing for older persons.

2. As used in this section, "housing for older persons" means housing:

a. Provided under any state or federal program that the secretary determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program.

b. Intended for, and solely occupied by, persons sixty two (62) years of age or older.

c. Intended and operated for occupancy by at least one person fifty five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the commission shall develop regulations which require at least the following factors:

(1) That at least eighty percent (80%) of the units are occupied by at least one person fifty five (55) years of age or older per unit.

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

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

a. Persons residing in such housing as of the date of enactment of this chapter who do not meet the age requirements of subsection D2b or D2c of this section; provided, that new occupants of such housing meet the age requirements of subsection D2b or D2c of this section.

b. Unoccupied units; provided, that such units are reserved for occupancy by persons who meet the age requirements of subsection D2b or D2c of this section.

4. Nothing in this chapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in the controlled substances act (21 USC 802) or a violation of the controlled substances chapter of the Iowa Code 1 .

8-5-4: DISCRIMINATION IN RESIDENTIAL REAL ESTATE RELATED TRANSACTIONS:

A. In General: It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation.

B. Definition: As used in this section, the term "residential real estate related transaction" means any of the following:

1. The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing, or maintaining a dwelling.
 - b. Secured by residential real estate.
2. The selling, brokering, or appraising of residential real property.

C. Appraisal Exemption: Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation..

8-5-5: DISCRIMINATION IN PROVISION OF BROKERAGE SERVICES:

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

8-5-6: ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS:

A. Complaints And Answers:

1. An aggrieved person may, not later than three hundred (300) days after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the commission alleging such discriminatory housing practice. The commission, on the commission's own initiative, a commissioner, or the city attorney's office may also file such a complaint.

2. Such complaints shall be in writing and shall contain such information and be in such form as the commission requires.

3. The commission may also investigate housing practices to determine whether a complaint should be brought under this section.

4. Upon the filing of such a complaint:

a. The commission shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this chapter;

b. The commission shall, not later than ten (10) days after such filing or the identification of an additional respondent under subsection A7 of this section, serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this chapter, together with a copy of the original complaint;

c. Each respondent may file, not later than ten (10) days after receipt of notice from the commission, an answer to such complaint; and

d. The commission shall make an investigation of the alleged discriminatory housing practice and complete such investigation within one hundred (100) days after the filing of the complaint unless it is impracticable to do so.

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

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

7. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice. Such notice, in addition to meeting the requirements of subsection A of this section, shall explain the basis for the commission's belief that the person to whom the notice is addressed is properly joined as a respondent.

B. Investigative Report And Conciliation:

1. Beginning with the filing of a complaint, the commission shall, to the extent feasible, engage in conciliation with respect to such complaint.

2. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the commission.

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

4. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this chapter.

5. a. At the end of each investigation under this section, the commission shall prepare a final investigative report containing:

(1) The names and dates of contacts with witnesses.

(2) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent.

(3) A summary description of other pertinent records.

(4) A summary of witness statements.

(5) Answers to interrogatories.

b. A final report under this subsection may be amended if additional evidence is later discovered.

C. Failure To Comply With Conciliation Agreement: Whenever the commission has probable cause to believe that a respondent has breached a conciliation agreement, the

commission shall refer the matter to the city attorney's office with a recommendation that a civil action be filed for the enforcement of such agreement.

D. Prohibitions And Requirements With Respect To Disclosure Of Information:

1. Nothing said or done in the course of conciliation under this chapter may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned.

2. Notwithstanding subsection D1 of this section, the commission shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the commission's investigation, information derived from an investigation and any final investigative report relating to that investigation.

E. Prompt Judicial Action: If the commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this chapter, the commission may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such authorization, the city attorney's office shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Iowa rules of civil procedure. The commencement of a civil action under this subsection does not affect the initiation of continuation of administrative proceedings under this chapter.

8-5-7: PROBABLE CAUSE DETERMINATION AND EFFECT:

A. Issuance Of Determination: If the commission determines that probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall immediately issue a determination unless the commission determines that the legality of a zoning or land use law or ordinance is involved as provided in subsection D of this section.

B. Conditions Of Determination: A cause determination must:

1. Consist of a short and plain statement of the facts on which the commission has found probable cause to believe that a discriminatory housing or real estate practice has occurred or is about to occur.

2. Be based on the final investigative report.

3. Need not be limited to the facts or grounds alleged in the complaint.

C. Distribution Of Copies Of Determination: Not later than twenty (20) days after the commission issues a cause determination, the commission shall send a copy of the determination with information as to how to make an election under section 8-5-9 of this chapter to all of the following persons:

1. Each respondent.

2. Each aggrieved person on whose behalf the complaint was filed.

D. Land Use Issues: If the commission determines that the matter involves the legality of a state or local zoning or other land use ordinance, the commission shall not issue a

determination and shall immediately refer the matter to the city attorney's office for appropriate action.

E. Dismissal Of Complaint: If the commission determines that no probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall promptly dismiss the complaint. The commission shall make public disclosure of each dismissal under this chapter.

F. Trial Or Civil Action: The commission shall not issue a determination under this subsection regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to the discriminatory housing or real estate practice.

8-5-8: SUBPOENAS; GIVING OF EVIDENCE:

A. In General: The commission may issue subpoenas and order discovery in aid of investigations and hearings under this chapter. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply for county attorney subpoenas.

B. Criminal Penalties:

1. Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to a subpoena or other lawful order under subsection A of this section, shall be referred to the city attorney's office or the county attorney's office for prosecution.

2. Any person who, with intent thereby to mislead another person in any proceeding under this chapter, does the following shall be referred to the city attorney's office or the county attorney's office for prosecution:

a. Makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection A of this section;

b. Willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents;

c. Willfully mutilates, alters, or by any other means falsifies any documentary evidence.

8-5-9: ENFORCEMENT BY COMMISSION:

A. Election Of Judicial Determination: When a probable cause determination has been issued, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in that complaint decided in a civil action under section 8-5-12 of this chapter in lieu of a hearing under subsection F of this section. The election must be made not later than twenty (20) days after the receipt by the electing person of service under section 8-5-7 of this chapter, or, in the case of the commission, not later than twenty (20) days after such service. The person making such election shall give notice of doing so to the commission and to all other complaints and respondents to whom the complaint relates.

B. Administrative Law Judge Hearing In Absence Of Election: If an election is not made under subsection A of this section with respect to a complaint, the commission shall provide an opportunity for a hearing on the record with respect to the complaint issued under section 8-5-6 of this chapter. The commission shall delegate the conduct of a hearing under this section to an administrative law judge appointed by the commission.

C. Rights Of Parties: At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross examine witnesses, and obtain the issuance of subpoenas under section 8-5-8 of this chapter. Any aggrieved person may intervene as a party in the proceeding. The Iowa rules of evidence apply to the presentation of evidence in such hearing as they would in a civil action in the Iowa district court.

D. Expedited Discovery And Hearing:

1. Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

2. A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

E. Resolution Of Charge: Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

F. Hearings, Findings, Conclusions And Order:

1. The administrative law judge shall commence the hearing under this section no later than one hundred twenty (120) days following the probable cause determination, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within one hundred twenty (120) days after the determination, the administrative law judge shall notify the commission, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing, of the reasons for not doing so.

2. The administrative law judge shall make findings of fact and conclusions of law within sixty (60) days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding sixty (60) day period thereafter, the administrative law judge shall notify the commission, the aggrieved person on whose behalf the charge was filed and the respondent, in writing, of the reasons for not doing so.

3. If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may,

to vindicate the public interest, assess a civil penalty against the respondent in an amount not to exceed those established by the federal fair housing act in section 42 USC 3612.

4. No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this chapter.

5. In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the commission shall, not later than thirty (30) days after the date of the issuance of such order or if such order is judicially reviewed, thirty (30) days after such order is in substance affirmed upon such review:

a. Send copies of the findings of fact, conclusion of law, and the order to that governmental agency.

b. Recommend to that governmental agency appropriate disciplinary action including, where appropriate, the suspension or revocation of the license of the respondent.

6. If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The commission shall make public disclosure of each such dismissal.

7. An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under a federal or state law, seeking relief with respect to that discriminatory housing practice.

8-5-10: REVIEW BY COMMISSION; SERVICE OF FINAL ORDER:

A. The commission may review any finding, conclusion, or order issued under section 8-5-9 of this chapter. Such review shall be completed not later than sixty (60) days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

B. The commission shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

8-5-11: JUDICIAL REVIEW:

A. Review Of Order: Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain review of such order by filing a petition for review not later than thirty (30) days after the order is issued in the Iowa district court pursuant to chapter 17A, code of Iowa.

B. Court Enforcement Of Administrative Order Upon Petition By Commission:

1. The commission may petition the Iowa district court in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order by filing in such court a

written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

2. The commission shall file in court with the petition the record of the proceeding. A copy of such petition shall be forthwith transmitted by the commission to the parties to the proceeding before the administrative law judge.

C. Relief Which May Be Granted:

1. Upon the filing of a petition under section 8-5-6 of this chapter, the court may, pursuant to section 216.17 of the code of Iowa:

a. Grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper.

b. Affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings.

c. Enforce such order to the extent that such order is affirmed or modified.

2. Any party to the proceeding before the administrative law judge may intervene on appeal to the court.

3. No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

D. Court Enforcement Of Administrative Order Upon Petition Of Any Person Entitled To Relief: After a final order of the commission, any person entitled to relief under the order may petition for a decree enforcing the order in the Iowa district court in Dubuque County, Iowa.

E. Civil Action For Enforcement When Election Is Made For Such Civil Action:

1. If an election is made under subsection 8-5-7C of this chapter, the commission shall authorize, not later than thirty (30) days after the election is made, the city attorney's office to commence and maintain a civil action on behalf of the aggrieved person in the Iowa district court in and for Dubuque County seeking relief under this subsection in accordance with section 216.16A of the code of Iowa.

2. Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

3. In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 8-5-12 of this chapter. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 8-5-12 of this chapter shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

F. Attorney Fees: In any administrative proceeding brought under this section or any court proceeding arising therefrom or any civil action, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the commission, reasonable attorney fees and costs.

8-5-12: ENFORCEMENT BY PRIVATE PERSONS:

A. Civil Action:

1. An aggrieved person may commence a civil action in an appropriate United States district court or state court not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this chapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

2. The computation of such two (2) year period shall not include any time during which an administrative proceeding under this chapter was pending with respect to a complaint or charge under this chapter based upon such discriminatory housing practice. This subsection does not apply to actions arising from a breach of a conciliation agreement.

B. Conciliation Agreement Precludes Action: An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 8-5-6 of this chapter and without regard to the status of any such complaint, but if the commission or the Iowa civil rights commission has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

C. Administrative Hearing Precludes Civil Action: An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice if an administrative law judge has commenced a hearing on the record under this chapter with respect to such charge.

D. Appointment Of Attorney By Court: Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may:

1. Appoint an attorney for such person.

2. Authorize the commencement or continuation of a civil action under subsection A of this section without the payment of fees, costs, or security if in the opinion of the court such person is financially unable to bear the costs of such action.

E. Relief Which May Be Granted:

1. In a civil action under subsection A of this section, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages and, subject to subsection F of this section, may grant as relief, as the court deems appropriate, any permanent or temporary injunction,

temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate.

2. In a civil action under subsection A of this section, the court, in its discretion, may allow the prevailing party reasonable attorney fees and costs.

F. Effect On Certain Sales, Encumbrances And Rentals: Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the filing of a complaint or civil action under this chapter.

G. Intervention By City Attorney's Office: Upon timely application, the city attorney's office may intervene in such civil action, if the city attorney's office certifies that the case is of general public importance. Upon such intervention, the city attorney's office may obtain such relief as would be available to the city attorney's office under section 8-5-13 of this chapter in a civil action to which such section applies.

8-5-13: ENFORCEMENT BY CITY ATTORNEY'S OFFICE:

A. Probable Cause: On the request of the commission, the city attorney's office may file a civil action in the district court for appropriate relief if the commission has probable cause to believe that any of the following applies:

1. A person is engaged in a pattern or practice of resistance to the full enjoyment of any housing right granted by this chapter.

2. A person has been denied any housing right granted by this chapter and that denial raises an issue of general public importance.

B. Legal Action; Enforcement: The commission may request the city attorney's office to take appropriate legal action of a discriminatory housing practice or to enforce a conciliation agreement.

1. The city attorney's office may commence a civil action in any appropriate court for appropriate relief with respect to a discriminatory housing practice referred to the city attorney's office.

2. A civil action under this subsection may be commenced no later than the expiration of the two (2) years after the date of the occurrence of the termination of the alleged discriminatory housing practice as provided in section 216.16A of the code of Iowa.

3. The city attorney's office may commence a civil action in any appropriate court for appropriate relief with respect to breach of a conciliation agreement referred to the city attorney's office by the commission.

4. A civil action may be commenced under this subsection no later than the expiration of ninety (90) days after the referral of the alleged breach under subsection 8-5-6C of this chapter.

5. The city attorney's office, on behalf of the commission or other party at whose request a subpoena is issued under this chapter, may enforce such subpoena in

appropriate proceedings in the district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

6. Relief may be granted in civil actions under subsections A and B of this section in accordance with section 216.17A of the code of Iowa. In a civil action under subsection A or B of this section, the court:

a. May award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this chapter as is necessary to assure the full enjoyment of the rights granted by this chapter.

b. May award such other relief as the court deems appropriate, including monetary damages to the person aggrieved.

c. May, to vindicate the public interest, assess a civil penalty against the respondent:

(1) In an amount not exceeding fifty thousand dollars (\$50,000.00) for a first violation.

(2) In an amount not exceeding one hundred thousand dollars (\$100,000.00) for any subsequent violation.

C. Attorney Fees And Costs: In a civil action under this section, the court, in its discretion, may allow the prevailing party reasonable attorney fees and costs.

D. Intervention In Civil Actions: Upon timely application, any person may intervene in a civil action commenced by the city attorney's office under subsection A or B of this section, which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 8-5-12 of this chapter.

8-5-14: COOPERATION WITH STATE AND FEDERAL AGENCIES:

The commission may cooperate with state and federal agencies charged with the administration of state and federal fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, in furtherance of such cooperative efforts, the commission may enter into written agreements with such state or federal agencies.

8-5-15: INTERFERENCE, COERCION OR INTIMIDATION; ENFORCEMENT BY CIVIL ACTION:

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of such person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter.

8-5-16: VIOLATIONS; BODILY INJURY; DEATH; PENALTIES:

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

following described persons shall be referred to the county attorney's office for prosecution:

A. Any person because of such person's race, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation and because such person is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings.

B. Any person because such person is or has been, or in order to intimidate such person or any other person or any class of persons from:

1. Participating, without discrimination on account of race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation in the activities, services, organizations, or facilities described in subsection A of this section.

2. Affording another person or class of persons opportunity or protection so to participate.

C. Any citizen because such person is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, familial status, national origin, creed, age, disability, or sexual orientation in any of the activities, services, organizations, or facilities described in subsection A of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.

8-5-17: DISCLAIMER OF PREEMPTIVE EFFECT:

Nothing in this chapter limits any right, procedure, or remedy available under the federal or state constitution.

Section 2. This ordinance shall take effect upon publication.

Passed, approved, and adopted this ____ day of _____, 2025.

Brad M. Cavanagh, Mayor

Attest:

Adrienne N. Breitfelder, City Clerk