

Attachment G

Chapter 1.40 - COUNCIL BLUFFS CIVIL RIGHTS COMMISSION

Sections:

1.40.010 - Purposes.

The purposes of the city in enacting this chapter are:

- (1) To secure for all individuals within the city, freedom from discrimination because of race, color, religion, creed, sex, sexual orientation, gender identity, national origin, age or mental or physical disability in connection with employment, public accommodations, housing and credit; and thereby to protect the personal dignity of these individuals, to ensure their full productive capacities, to preserve the public safety, health and general welfare, and to promote the interest, rights and privileges of individual citizens within the city;
- (2) To provide for the execution within the city of policies embodied in the Iowa Civil Rights Act of 1965 and in the Federal Civil Rights Act, and to promote cooperation between the city and the state and federal agencies enforcing those acts;
- (3) To provide, at the local level, a civil rights commission dedicated to the following: effective enforcement of this chapter; service as a source of information to employers, laborers, businessmen, employees, tenants and other citizens relative to various civil rights legislation and regulations; and active assistance to prevent and eliminate the effects of discriminatory acts and practices.

(Ord. 5970 § 1, 2008).

1.40.020 - Construction.

This chapter shall be construed broadly to effectuate its purposes.

(Ord. 5655 § 1 (part), 2001).

1.40.030 - Definitions.

For the purposes of this chapter, the following words, terms and phrases are defined as follows:

- (1) "Affirmative action" means a plan whereby a set of specific result-oriented procedures are established and to which a "person" commits himself or herself to apply every good faith effort to achieve. The objective of those procedures is to ensure equal opportunity in public and private employment, housing, public accommodation, credit transactions and city contracts.

- (2) "Bona fide occupational qualification (BFOQ)" means a job-related requirement which bears a demonstrable relationship to the successful performance of the job for which it is used.
- (3) "Commission" means the civil rights commission created by this chapter.
- (4) "Commissioner" means a member of the local civil rights commission.
- (5) "Complainant" means any person filing a complaint with the commission.
- (6) "Contract" means any agreement that is awarded, let, procured or entered into with, or on behalf of, the city or any awarding authority thereof.
- (7) "Contracting authority" means any city department, agency, commission, board or any authorized employee, including any purchasing agent of the city, who makes or enters into any contract agreement for the provision of any goods or services of any kind or nature whatsoever for and on behalf of the city.
- (8) "Court" means the district court in and for the judicial district of the state of Iowa in which the alleged unfair or discriminatory practice occurred, or any judge of the court if the court is not in session at the time.
- (9) "Director" means the city attorney or his or her designee.
- (10) "Disability" means a physical or mental impairment which substantially limits one or more of a person's major life activities, a record of having such an impairment or being regarded as having such an impairment. In reference to employment under this chapter, "disability" also means the physical or mental condition of a person which constitutes a substantial handicap, but which is unrelated to a person's ability to engage in a particular occupation. "Disability" does not include current, illegal use of or addiction to a controlled substance.
- (11) "Employee" means any person employed by an employer.
- (12) "Employer" means the city of Council Bluffs or any board, commission or department thereof, and every other person employing employees within the state of Iowa.
- (13) "Employment agency" means any person undertaking to procure employees or opportunities to work for any other person or any person holding himself or herself to be equipped to do so.
- (14) "Familial status" means one or more individuals under the age of eighteen (18) domiciled with one of the following:
 - (A) A parent or another person having legal custody of the individual or individuals.
 - (B) The designee of the parent or other person having custody of the individual or individuals, with the written permission of the parent or other person.
 - (C) A person who is pregnant or is in the process of securing legal custody of the individual or individuals.

"Familial status" also means a person who is pregnant or who is in the process of securing legal custody of an individual who has not attained the age of eighteen (18) years.

- (15) "Gender identity" means a gender-related identity of a person, regardless of the person's assigned sex at birth.
- (16) "Housing for older persons" means any of the following:
- (A) Housing intended and operated for ninety (90) percent occupancy by at least one person fifty-five (55) years of age or older per unit, and providing significant facilities specifically designed to meet the physical or social needs of such person.
 - (B) Housing intended for and occupied solely by persons sixty-two (62) years of age or older.
 - (C) Housing provided under any state or federal program specifically designated and operated to assist elderly persons (as defined in the state or federal program).
- (17) "Individual" means any natural person.
- (18) "Labor organization" means any organization that exists for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.
- (19) "Person" means one or more individuals, partnerships associates, corporations legal representatives, trustees, receivers, employees or agents, and the city and all of this boards and commissions.
- (20) "Public accommodation" means each and every place, establishment, or facility of whatever kind, nature or class which caters or offers services, facilities or goods to the general public for a fee or charge, provided that any place, establishment or facility which caters or offers services, facilities or goods to the general public gratuitously is a public accommodation if the accommodation receives any substantial governmental support or subsidy.
- "Public accommodation" does not mean any bona fide private club or other place, establishment, or facility which by its nature is distinctly private, except when a distinctly private place, establishment or facility caters or offers services, facilities, or goods to the general public for a fee or charge, or gratuitously, it shall be deemed a public accommodation during such period of use.
- "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 pre-existing definition of the term "public accommodation."
- (21) "Referral" means the process by which the Iowa Civil Rights Commission notifies the local commission that a complainant has been filed with the state commission, and that the same is postponing its investigative activities for a period of sixty (60) days while the local commission investigates and attempts to resolve the matter.
- (22) "Respondent" means that person against whom a complaint has been filed with the commission.

- (23) "Retaliation" means any act directed at a complainant or other person with the intent of affecting that person unfavorably because of his or her formal or informal efforts to secure or aid in securing compliance with this chapter.
- (24) "Sexual orientation" means actual or perceived heterosexuality, homosexuality, or bisexuality."
- (25) "Unfair practice" or "discriminatory practice" is synonymous with, and shall be as specified, in this chapter.

(Ord. 5971 § 1, 2008).

1.40.040 - Establishment, membership and organization.

There is established the Council Bluffs civil rights commission. The commission shall consist of nine members. Commissioners shall be appointed by the mayor, subject to approval by the city council, for a term of three years, with terms expiring on August 1st. In the event of vacancies, special appointments to the commission shall be made by the mayor, subject to approval by the city council. The commission shall elect its own chairperson and such other officers as the commission may deem necessary. All members of the commission shall be residents of the city and shall be broadly representative of the geographical areas of the community. Any member of the commission may, for cause, be removed from office by the mayor, subject to approval of the city council. Missing three or more regular meetings in a calendar year shall be deemed cause, and may result in a commissioner's removal from office. Members shall serve without compensation. A quorum shall consist of five members of the commission. All acts of the commission shall require a majority vote, unless otherwise required by Robert's Rules of Order.

(Ord. 5959 § 1, 2007).

1.40.050 - Holding over in office.

If, for any reason, appointments are not made in a timely manner to fill vacancies on the commission created by the expiration of terms, the commissioners whose terms have expired shall hold over until new appointments are made.

(Ord. 5655 § 1 (part), 2001).

1.40.060 - Powers and duties.

The commission shall have the following powers and duties:

- (1) 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, extension of credit, real estate, financial transactions and housing in the city, and to attempt the elimination of such discrimination by education and conciliation;

- (2) To advise and consult with the mayor and city council on all matters involving racial, religious, ethnic, or handicapped prejudice or discrimination in the above-listed areas;
- (3) To report to the mayor and city council relative to the actions taken by the commission as requested by the city council or initiated by the commission;
- (4) To invite and enlist the cooperation of racial, religious and ethnic groups, community organizations, labor and business organizations, fraternal and benevolent societies, veterans' organizations, professional and technical organizations, and other groups in the city in order to carry on the work of the commission. The commission may also aid in the formation of local community groups in such neighborhoods as it may deem necessary or desirable to carry out specific programs designed to lessen tensions or to improve understanding in the community;
- (5) To conduct fact-finding conferences to seek settlements between the charging party and respondent prior to a formal investigation, yet subsequent to the timely filing of a charge of discrimination;
- (6) To receive, investigate, and finally determine the merits of complaints alleging unfair or discriminatory practices;
- (7) By written notice, to request the presence of any person having possession of material or real evidence for the purpose of investigating a complaint of discrimination. The written request shall be by certified mail, return receipt requested. When a person fails to provide the requested information, the commission, or its agent, may petition the district court having jurisdiction for the issuance of a subpoena for the person to so appear, and the court shall in a proper case issue such subpoena;
- (8) To hold hearings upon any complaint made against a person, an employer, an employment agency or labor organization, or the employees or members thereof, to administer oaths and take the testimony of any person under oath, and to compel such persons, employer, employment agency or labor organization, or employees or members thereof, to produce for examination any books and papers relating to any matter involved in such complaint. Such hearings may be held by the commission, by any commissioner or by any hearing officer appointed by the commission;
- (9) To take the necessary remedial action, as to the judgment of the commission, to carry out the purposes of this chapter. For 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,
 - (B) Admission or restoration of individuals to programs and admission to a public accommodation or an educational institution,
 - (C) Sale, exchange, lease, rental, assignment or sublease of real property to an individual,
 - (D) 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, actual damages, court costs, and reasonable attorney fees, and the issuance of an order requiring the respondent to cease and desist from said practice,

- (E) Reporting as to the manner of compliance,
 - (F) Posting notices in conspicuous places in the respondent's place of business in a form prescribed by the commission and inclusive of notices in advertising material,
 - (G) In addition to the remedies provided in the preceding provisions of this subsection, the commission may issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take such affirmative action as, in the judgment of the commission, will carry out the purposes of this section,
 - (H) The terms of a conciliation agreement reached with the respondent may require him or her 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 chapter; and a 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 as contempt by the court upon showing by the commission of the violation at any time within six 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, respondent, and such other person(s) as the commission deems proper. At any time, in its discretion, the commission may investigate whether the terms of the agreement are being complied with by the respondent;
- (10) To seek a temporary injunction against the respondent when it appears that a complainant may suffer irreparable injury as a result of alleged violations of this chapter;
 - (11) To issue such publications and reports of investigations and research as in the judgment of the commission shall tend to promote goodwill among the various racial, religious, ethnic and other groups within the city, and which shall tend to minimize or eliminate discrimination in public accommodations, employment, apprenticeships and on-the-job training programs, vocational schools, housing, or credit because of race, creed, color, sex, sexual orientation, gender identity, national origin, disability or age;
 - (12) 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, and in the planning and conducting of programs designed to eliminate discrimination;
 - (13) To hold regularly scheduled meetings at the call of the chairperson of the commission or when requested by a majority of the members of the commission. The meetings of the commission shall be held at the city hall building in Council Bluffs, Iowa. The city attorney or his or her designee shall provide the commission with such staff as is deemed necessary to carry out the duties and responsibilities of the commission. The mayor or his or her designee shall designate the city fund from which the necessary expenses of the commission shall be paid;
 - (14) To enter into contracts with the federal and state civil rights agencies which would further the purposes of this chapter and seek from the federal equal employment

opportunity commission and the federal and state civil rights commission the designation as a deferral agency, which shall have legal precedence in all other cases in its jurisdiction, except where otherwise agreed, or where a complainant requested in written form that the deferral agency not be notified;

- (15) To establish and administer a positive affirmative action plan for the city, and administer any fair housing programs as are necessitated by federal and state regulations;
- (16) To assist all city contracting authorities in preparing equal employment opportunity and anti-discrimination provisions for contract specifications and advise them as to the compliance records of prospective contractors;
- (17) To require that all contracts entered into on behalf of the city, and all subcontractors thereon for which the consideration is in excess of fifty thousand dollars (\$50,000.00) shall contain a nondiscrimination clause barring discrimination in employment, and shall require that the public notices contain the provisions set forth therein;
- (18) To require that all city agencies, boards and commissions forward to the agency all equal employment opportunity documents for review and evaluation prior to their submission thereof to any state or federal agency.

(Ord. 5972 § 1, 2008).

1.40.070 - Public meetings, records and confidentiality.

- (a) All meetings of the commission shall be held in compliance with Chapter 21 of the Code of Iowa regarding open meetings, except that the commission shall hold a closed session for consideration of any complaint of discrimination of a report concerning investigation or conciliation of a complaint, as provided in this chapter.
- (b) The disclosure of information, whether a charge has been filed or not, or revealing the contents of any file is prohibited except in the following circumstances:
 - (1) If a final decision has been reached, a party or a party's attorney may, upon showing that a petition appealing the commission action has been filed, have access to the commission's case file on that complaint.
 - (2) If a case has been approved for public hearing, and the letter informing parties of this fact has been mailed, any party or party's attorney may have access to file information through prehearing discovery measures set out in Iowa Code Chapter 17A. (3) If a decision rendered by the commission in a contested case has been appealed, any party or party's attorney may, upon showing that the decision has been appealed, have access to the commission's case file on that complaint.

The fact that copies of documents related to or gathered during an investigation of a complaint are introduced as evidence during the course of a contested case proceeding does not affect the confidential status of all other documents in the file that are not introduced as evidence.

(Ord. 5655 § 1 (part), 2001).

1.40.080 - Unfair employment practices.

(a) It is an unfair or discriminatory practice for any:

- (1) Person to refuse to hire, accept, register, classify or refer for employment, to discharge from employment, or to otherwise discriminate in employment against any applicant for employment or an employee because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability of such applicant or employee, unless based upon a bona fide occupational qualification;
- (2) Labor organization 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 age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability 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 age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability are unwelcome, objectionable, not acceptable or not solicited for employment or membership unless based upon a bona fide occupational qualification. An employer, employment agency or their employees, servants or agents may offer employment or advertise for employment to only the disabled, when other applicants have available to them other employment compatible with their ability which would not be available to the disabled because of their handicap. Any such employment shall not discriminate among the disabled on the basis of race, color, creed, sex, sexual orientation, gender identity, or national origin.

(b) This section shall not apply to:

- (1) Any employer who regularly employs less than four individuals. For the purpose of this subsection, individuals who are members of the employer's family shall not be counted as employees;
- (2) The employment of individuals for work within the home of the employer, if the employer or a member of his or her family reside therein during such employment;
- (3) The employment of individuals to render personal service to the person of the employer or members of his or her family;
- (4) Any bona fide religious institution or its educational facility, association, corporation or society with respect to any qualifications for employment based upon 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;
- (5) This section shall not prohibit discrimination on the basis of age if the person subject to the discrimination is under the age of eighteen (18) years, unless the person is considered by law to be an adult;

- (6) This section shall not apply to age discrimination in a bona fide apprenticeship employment program if the employee is over forty-five (45) years of age;
- (7) After a handicapped individual is employed, the employer shall not be required under this chapter to promote or transfer such handicapped person to another job or occupation. Any collective bargaining agreement between an employer and labor organization shall contain this section as a part of such agreement.

(Ord. 5973 § 1, 2008).

1.40.090 - Unfair practices—Accommodations or services.

- (a) It is an unfair or discriminatory practice for any owner, lessee, sublessee, proprietor, manager or superintendent of any public accommodation or agent or employee thereof:
 - (1) To refuse or deny any individual because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability, the accommodations, advantages, facilities, services or privileges thereof, or otherwise to discriminate against any individual because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability 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 individuals of any particular race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability is unwelcome, objectionable, not acceptable, or not solicited.
- (b) This section shall not apply to:
 - (1) Any bona fide religious institution with respect to any qualifications the institution may impose based upon religion, when such qualifications are related to a bona fide religious purpose.
 - (2) The rental or leasing to transient individuals of less than six rooms within a single housing accommodation by the occupant or owner of such housing accommodation if the occupant or owner or members of his or her family reside therein.

(Ord. 5974 § 1, 2008).

1.40.100 - Unfair or discriminatory practices—Housing.

It is an unfair or discriminatory practice for any owner, or person acting for an owner, of rights to housing or rental property, with or without compensation, including but not limited to persons licensed as real estate brokers or salespersons, attorneys, auctioneers, agents or representative by power of attorney or appointment, or any person acting under court order, deed or trust, or will:

- (1) To refuse to sell, rent, lease, assign or sublease any real property or housing accommodation or part, portion or interest therein to any individual because of the race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability of such individual;

- (2) To discriminate against any individual because of his or her race, color, creed, sex, sexual orientation, gender identity, religion, national origin or disability, in the terms, conditions, and privileges of the sale, rental, lease, assignment, or sublease of any real property or housing accommodation or any part, portion or interest therein;
- (3) To directly or indirectly advertise, or in any other manner indicate or publicize, that the purchase, rental, lease, assignment or sublease of any real property or housing accommodations or any part, portion or interest therein by individuals of any particular race, color, creed, sex, sexual orientation, gender identity, religion, national origin or disability is unwelcome, objectionable, not acceptable or not solicited;
- (4) To discriminate against the lessee or purchaser of any real property or housing accommodation, or part, portion or interest in real property or housing accommodation, or against any prospective lessee or purchaser of the property for accommodation, because of the race, color, creed, religion, sex, sexual orientation, gender identity, disability, or familial status, age or national origin of individuals who may, from time to time, be present in or on the lessee's or owner's premises for lawful purposes at the invitation of the lessee or owner as friends, guests, visitors, relatives or in any similar capacity;
- (5) The provisions of subsections (1) through (4) of this section shall not apply to the following:
 - (A) The rental, leasing or occupancy of dwellings owned or operated by a religious organization, association, or society, or any nonprofit institution operated, supervised, or controlled by a religious organization, association or society, where preference in rental, leasing, or occupancy is given to persons of the same religion, unless membership in the religion is restricted on account of race, color, or national origin,
 - (B) The rental or leasing of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or member of the owner's family reside in one of the accommodations,
 - (C) The rental or leasing of a housing accommodation in a building which contains housing accommodations for not more than four families living independently of each other, if the owner resident in one of the housing accommodations for which the owner qualifies for the homestead tax credit under Iowa Code Section 425.1,
 - (D) The rental or leasing of less than six rooms within a single housing accommodation by the occupant or owner of such housing accommodation, if the occupant or owner or members of that person's family reside there,
 - (E) Restrictions based on sex on the rental or leasing of housing accommodations by nonprofit corporation,
 - (F) The rental or leasing of a housing accommodation within which residents of both sexes must share a common bathroom facility on the same floor, of the building;
- (6) The provisions of this section relating to "familial status" shall not apply to housing for older persons, as defined in Section 1.40.030(22);

- (7) Nothing in this chapter limits the applicability of any reasonable local, state or federal restriction on the maximum number of occupants permitted to occupy a dwelling.

(Ord. 5975 § 1, 2008).

1.40.110 - Unfair credit practices.

- (a) It is an unfair or discriminatory practice for any:
- (1) 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, because of age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, or physical disability;
 - (2) Person authorized or licensed to do business in this state pursuant to Chapter 524, 533, 534, 536, or 536A of the Code of Iowa, to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to individuals of similar economic backgrounds, because of age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity or physical disability;
 - (3) Creditor to refuse to offer credit, life or health accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability or sex, sexual orientation, gender identity. Refusal by a creditor to offer credit, life or health 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 U.S.C.A Title 20.
- (b) The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this chapter.

(Ord. 5976 § 1, 2008).

1.40.120 - Unfair or discriminatory practices—Education.

- (a) It is an unfair or discriminatory practice for any educational institution to discriminate on the basis of sex in any program or activity. Such discrimination shall include, but not be limited to, the following practices:
- (1) On the basis of sex, exclusion of a person or persons from participation in, denial of the benefits of, or subjection to discrimination in any academic, extracurricular, research, occupational training or other program or activity, except athletic programs;
 - (2) On the basis of sex, denial of comparable opportunity in intramural and interscholastic athletic programs;
 - (3) On the basis of sex, discriminate among persons in employment and the conditions thereof;
 - (4) 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.

- (b) For the purpose of this section, "educational institution" includes any public preschool, elementary, secondary or merged-area school or any education agency and their governing boards. Nothing in this section shall be construed to prohibit any educational institution from maintaining separate toilet facilities, locker rooms or living facilities for the different sexes so long as comparable facilities are provided.

(Ord. 5655 § 1 (part), 2001).

1.40.130 - Aiding or abetting.

It is an unfair or discriminatory practice for any person to intentionally aid, abet, compel or coerce another person to engage in any of the practices declared unfair or discriminatory by this chapter.

(Ord. 5655 § 1 (part), 2001).

1.40.140 - Retaliation.

It is an unfair or discriminatory practice for any person to:

- (1) Discharge, harass, penalize or otherwise retaliate against an individual because of that individual's attempts to secure compliance or aid in securing compliance with this chapter or the remedies provided hereunder;
- (2) Discharge, harass, penalize or otherwise retaliate with respect to employment, housing, public accommodation or financial practices against any individual because of that individual's association with persons of a particular race, religion, creed, national origin or sex, sexual orientation, or gender identity;
- (3) Discriminate against another individual in any of the rights protected against discrimination on the basis of age, race, creed, color, sex, sexual orientation, or gender identity, national origin, religion or disability by this chapter because such individual has lawfully opposed any practices forbidden under this chapter, obeys the provisions of this chapter, or has filed a complaint, testified or assisted in any proceeding under this chapter.

(Ord. 5977 § 1, 2008).

1.40.150 - Complaint procedures.

- (a) An individual claiming to be aggrieved by a discriminatory practice, his or her agent, the director of the commission, the city attorney or a nonprofit organization with a purpose of combating discrimination, may file a written complaint stating that a discriminatory practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to identify the person charged, who shall hereinafter be referred to as the respondent. The allegations of discriminatory practice set forth in the complaint shall be

promptly reviewed by staff, and a copy shall be sent by certified mail to the respondent. The complaint must be made within one hundred eighty (180) days after the alleged discriminatory practice occurs.

- (b) It is recommended that all parties consider entering into no-fault mediation prior to a full investigation of the complaint.
- (c) The director may administratively close a case for failure to cooperate with the commission or its representatives.
- (d) A complainant may request an administrative release/right-to-sue after their complaint has been on file for more than sixty (60) days. Once a right-to-sue has been issued, the complaint will be closed, and the complainant will have ninety (90) days to commence an action in Iowa District Court.
- (e) If it is determined, after investigation, that no probable cause exists for such complaint, the commission shall notify the complainant and respondent of such determination, and the case shall be closed with the commission.
- (f) If it is determined, after investigation, that probable cause does exist for crediting the allegations of the complaint, the commission's staff shall promptly proceed with conciliation.
- (g) Legal department staff shall notify the Iowa Civil Rights Commission whenever a finding of probable cause or no probable cause has been made with respect to any case within their jurisdiction or whenever such case is otherwise closed.
- (h) The complaint may be amended at any time prior to the scheduling of the complaint for a public hearing and, thereafter, only upon the consent of the person or persons conducting the hearing. Such leave shall be freely given when justice so requires.
- (i) Legal department staff shall notify the Iowa Civil Rights Commission of all complaints filed within five working days of the filing of the complaint.

(Ord. 5910 § 1, 2007).

1.40.160 - Conciliation.

- (a) Prior to a finding of probable cause, the person investigating the complaint may enter into the conciliation process with the respondent at the respondent's request where the investigation has been sufficient for the investigator to determine adequate remedies for the alleged discrimination.
- (b) After a finding of probable cause, the respondent shall be promptly notified, in writing, of the finding and shall be informed of his or her right to conciliate. The notification shall further contain a suggested place, date and time for the conciliation meeting.
- (c) Where the conciliation results in an agreement between the respondent and the commission, the agreement shall be in writing and signed by the respondent or his or her representatives and by the director of the commission. The director shall consult with the complainant prior to signing the agreement, and should the complainant object to the agreement, the agreement must be presented to the commission for its approval before the

agreement may be signed. The complainant shall be given an opportunity to state the reasons for dissatisfaction to the commission.

- (d) If, after attempts to conciliate, the person directed to conciliate finds that conciliation efforts have failed, such failure shall be reported, in writing, to the commission. If the commission determines the charge to be well founded, it will promptly schedule the matter for public hearing. If the commission determines the charge not to be well founded, it shall declare the case closed and shall so notify the Iowa Civil Rights Commission of the failure of conciliation efforts and of the action taken.

(Ord. 5655 § 1 (part), 2001).

1.40.170 - Public hearing.

- (a) After the commission has voted to take a complaint to a public hearing, the commission shall serve on the respondent by certified mail a written notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer, in writing, the allegations of the complaint at a hearing before one or more members of the commission or a hearing officer at a time and place specified in the notice. A copy of the notice shall be furnished to the complainant, the Iowa Civil Rights Commission, and such other public officers and such other persons as the commission deems proper.
- (b) The notice shall include:
 - (1) A statement of the time, place and nature of the hearing;
 - (2) A statement of legal authority and jurisdiction under which the hearing is to be held;
 - (3) A reference to the particular sections of the ordinance and rules involved;
 - (4) A short and plain statement of the matters asserted. If the commission is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved.
- (c) The hearing will be conducted by any member of the commission or a panel of commission members not to exceed three members elected by vote of the commission or by any person selected as a hearing officer by majority vote of those members eligible to take part in the conducting of the hearing, pursuant to subsection (d) of this section.
- (d) No person shall take part in the conducting of the hearing who has any personal interest in its outcome or who has taken part in the investigation of the complaint. No commissioner who would be disqualified under the above criteria shall take part in any vote or discussion by the commission respecting the complaint.
- (e) If a party fails to appear in a contested case proceeding after a proper service of notice, the person(s) conducting the hearing may proceed and make a decision in the absence of the party.
- (f) Opportunity shall be afforded all parties to respond and present evidence and arguments on all issues involved and to be represented by legal counsel at their own expense. The case for the commission may be presented by any member of the commission's staff or by an

attorney from the city attorney's office. The hearing need not be bound by strict rules of evidence, but the admission of evidence should be based upon sound discretion.

- (g) The record in a case shall include:
 - (1) All pleadings, motions and intermediate rulings;
 - (2) All evidence received or considered and all other submissions;
 - (3) A statement of all matters officially noticed;
 - (4) All questions and offers of proof, objections and rulings thereon;
 - (5) All proposed findings and exceptions.
- (h) Oral proceedings shall be open to the public and shall be recorded either by mechanized means or by a certified shorthand reporter. Oral proceedings or any part thereof shall be transcribed at the request of any party, with the expense of transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription hereof shall be filed and maintained by the commission for at least five years from the date of the decision. Notice of public hearing shall be disseminated among local news media at least five days prior to the date of the hearing.
- (i) Findings of fact shall be based solely upon the evidence in the record and on matters officially noticed in the record.
- (j) The person(s) conducting the hearing will make written findings of fact and will state, in writing, their determination as to whether or not the respondent discriminated against the complainant, and their recommended disposition, including remedies provided under subsection (9) of Section 1.40.060.
- (k) The commission shall vote as to whether to adopt, modify or overrule the written findings and proposed remedies. Thereupon the commission shall issue a ruling, either incorporating the proposed findings and remedies as its own, stating the commission's decision, including separate findings in remedy. Decisions shall be sent by certified mail to the parties of record for the purposes of Section 1.40.180; the date of filing shall be considered the date of the commission's decision.

(Ord. 5655 § 1 (part), 2001).

1.40.180 - Judicial review.

- (a) Any complainant or respondent claiming to be aggrieved by a final order of the commission, including a refusal to issue an order, may obtain judicial review thereof pursuant to Chapter 17A, Code of Iowa. The commission may obtain an order of court for the enforcement of commission orders in a proceeding as provided in this section.
- (b) An enforcement proceeding brought by the commission shall be brought in the district court 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 to take other affirmative action, resides or transacts business.

- (c) 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 the 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) 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) If no proceeding to obtain judicial review is instituted within thirty (30) days from the service of an order of the commission, the commission may obtain an order of the court for the enforcement of such order of one 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.
- (f) Any aggrieved party of record may obtain judicial review by filing a petition for judicial review in the District Court of Iowa in and for Pottawattamie County as specified in the Iowa Rules of Civil Procedure.

(Ord. 5655 § 1 (part), 2001).

1.40.190 - Sixty-day administrative release.

- (a) A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek administrative relief by filing a complaint with the commission in accordance with 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 of Iowa if all of the following conditions have been satisfied:
 - (1) The complainant has timely filed the complaint with the commission as provided in this chapter; and
 - (2) The complaint has been filed with the commission for at least sixty (60) days, and the commission has issued a release to the complainant pursuant to subsection (b) of this section.
- (b) Upon a request by the complainant, and after the expiration of sixty (60) days from the timely filing of a complaint with the commission, the commission shall issue to the complainant a release stating that the complainant has a right to commence an action in the District Court. A release under this subsection shall not be issued if a finding of no probable cause has been made on the complaint or a conciliation agreement has been executed, or the commission has served notice of hearing upon the respondent pursuant to this chapter, or the complaint if closed as an administrative closure and two years have elapsed since the issuance date of the closure.
- (c) An action authorized under this section is barred unless commenced within ninety (90) days after issuance by the commission of a release under subsection (b) of this section. If a

complainant obtains a release from the commission under subsection (b) of this section, the commission shall be barred from further action on that complaint.

(Ord. 5655 § 1 (part), 2001).

1.40.200 - City employment.

In an effort to develop and maintain fair employment practices within city government, pursuant to federal and state equal opportunity laws, the commission shall advise the mayor and city council of personnel practices implemented by the city, including recruitment, selection and general work conditions. In the event it is alleged that the city is in violation of applicable federal or state equal opportunity laws, the allegation shall be received and processed by the state of Iowa Civil Rights Commission. Upon notification that a discrimination complaint has been filed with the Iowa Civil Rights Commission identifying the city as the respondent, the city shall notify the commission within ten (10) calendar days of receipt of the discrimination complaint. Upon receiving notice of a discrimination complaint identifying the city as a respondent, the commission shall investigate the complaint and report its findings, including suggested remedies, to the mayor and city council within thirty (30) calendar days or within the time limits prescribed by the state of Iowa Civil Rights Commission.

(Ord. 5655 § 1 (part), 2001).

1.40.210 - Exceptions.

This chapter shall not apply to the police department or fire department of Council Bluffs, except in respect to employment and housing.

(Ord. 5655 § 1 (part), 2001).

1.40.220 - Limitations.

The prohibitions contained within this chapter pertaining to unfair or discriminatory practices because of age shall be limited to individuals who are at least forty (40) years of age but less than seventy years of age.

(Ord. 5655 § 1 (part), 2001).