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CHAPTER 7

HUMAN RIGHTS COMMISSION

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**COURT:** The District Court in and for Lee County, Iowa, or any judge of said Court if the Court is not in session at that time.

**DISABILITY:** The physical or mental condition of a person which constitutes a substantial handicap. In reference to employment, under this Chapter, "disability" also means the physical or mental condition of a person which constitutes a substantial handicap, but is unrelated to such person's ability to engage in a particular occupation.

**EMPLOYEE:** Any person employed by any employer.

**EMPLOYER:** The City of Fort Madison or any other political subdivision, board, commission, department, institution, or school district thereof, and every other person employing employees within this City.

**EMPLOYMENT AGENCY:** 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.

2-7-1: **DEFINITIONS:** Unless indicated otherwise in this Chapter, the following will define the listed words and phrases:

**LABOR ORGANIZATION:** Any organization which exists for the purpose, in whole or part, of collective bargaining, of dealing with employers concerning grievances, terms or conditions with employment.

**COMMISSION:** The Fort Madison Human Rights Commission authorized by this Chapter.

**PERSON:** One or more individuals, partnerships, associations, corporations, legal

**COMPLAINANT:** That person filing a complaint with the Commission.

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representatives, trustees, receivers, and the State of Iowa and all political subdivisions and agencies thereof.

**PUBLIC ACCOMMODATION:** Each and every place, establishment or facility of whatever kind, nature or class that caters or offers services, facilities or goods to the general public for a fee or charge; provided, that any place, establishment or facility that caters or offers services, facilities or goods to the general public gratuitously shall be deemed a public accommodation if the accommodation receives any substantial governmental support or subsidy. 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 general public for a fee or charge or gratuitously, during such period it shall be deemed a public accommodation. 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 paragraph 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".

**REFERRAL:** The process whereby the Iowa Civil Rights Commission notifies the local Commission that a complaint has been filed with the State Commission and that the State is postponing its investigative activities for a period of sixty (60) days while the local Commission investigates and attempts to resolve the matter.

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**RESPONDENT:** That person against whom a complaint has been filed with the Commission.

**UNFAIR PRACTICE or DISCRIMINATORY PRACTICE:** Those practices specified as unfair or discriminatory in this Chapter. (Ord. B-361, 12-15-81)

#### 2-7-2: **HUMAN RIGHTS COMMISSION:**

- A. There is hereby established in the City government the Fort Madison Human Rights Commission, which consist of nine (9) resident members. Members of said Commission shall be appointed by the Mayor of the City and confirmed by the City Council. Vacancies shall be filled for the remainder of the unexpired term. The Commission shall elect a chairperson and vice chairperson and secretary from the members of said Commission. Any five (5) members shall constitute a quorum. All members of the Commission shall serve without compensation, but shall be reimbursed for necessary travel and other expenses out of the funds appropriated for the Commission. The Commission may select such additional personnel as it may deem necessary to carry out the purposes of this Chapter consistent with the funds appropriated for that purpose and any gifts or grants which the Commission may receive from other sources. Commission members appointed by authority of the prior City Code, Chapter 11, in effect on November 1, 1981, are valid members under this provision. (Ord. B-361, 12-15-81; amd. Ord. C-067, 9-18-90)

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- B. Any lawfully appointed member of the Commission who is a nonresident of the City and who holds office on the effective date of this Section may be allowed to continue in office until the expiration of its term. In addition, the Mayor, with the approval of the Council, may reappoint any such member provided the reappointment immediately follows the expiration of the member's prior term in office. (Ord. C-067, 9-18-1990)
- C. If any Commission member fails to attend three (3) out of five (5) previous regular meetings or three (3) consecutive regular meetings they shall be considered removed from the Commission unless the Commission has voted to excuse the absences by an affirmative, recorded, majority vote. The appointment of any removed Commission member, whose absences are not excused, may only be extended or renewed by action of the Mayor with approval of the City Council. (Ord. C-103, 12-3-1991; amd. Ord. C-247, 9-19-1995)

discrimination in public accommodations, employment, apprenticeship programs, on-the-job training programs, vocational schools, credit practices, and housing in the City and to attempt the elimination of such discrimination by education and conciliation.

- D. To seek a temporary injunction without bond against a respondent when it appears that a complainant may suffer irreparable injury as a result of an alleged violation of this Chapter. A temporary injunction may only be issued ex parte if the complaint filed with the Commission alleges discrimination in housing. In all other cases a temporary injunction may be issued only after the respondent has been notified and afforded the opportunity to be heard.
- E. To hold hearings upon any complaint made against a person, an employer, an employment agency, or 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, or 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 shall issue subpoenas for witnesses in the same manner and for the same purposes on behalf of the respondent upon his 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

**2-7-3: POWERS AND DUTIES:** The Commission shall have the following powers and duties:

- A. To appoint and prescribe the duties of such employees as the Commission shall deem necessary for the enforcement of this Chapter.
- B. To receive, investigate and finally determine the merits of complaints alleging unfair or discriminatory practices in the City.
- C. To investigate and study the existence, character, causes and extent of

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a subpoena issued by the Commission, the Commission may petition the district court having jurisdiction for issuance of a subpoena and the court shall in a proper case issue the subpoena. Refusal to obey such subpoena shall be subject to punishment for contempt. (Ord. B-361, 12-15-1981)

F. To take necessary remedial action 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: (Ord. B-361, 12-15-1981; amd. Ord. B-438, 3-6-1984)

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

2. 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.

3. Admission of individuals to a public accommodation or an educational institution.

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

5. 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.

6. Reporting as to the manner of compliance.

7. 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.

8. 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.

G. To issue such publications and reports of investigations and research as in the judgment of the Commission shall tend to promote good will 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, apprenticeship and on-the-job training programs, vocational schools, housing, because of race, creed, color, sex, national origin, religion, disability or ancestry.

H. To make recommendations to the Mayor and City Council for such further legislation concerning discrimination in race, creed, color, sex, national origin, religion, ancestry or disability as may be necessary and desirable and to adopt, publish, amend and rescind regulations consistent with and necessary for the enforcement of this Chapter.

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- I. 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 racial, religious, cultural and inter-group tension.
- J. To receive, administer, dispense and account for any funds that may be voluntarily contributed to the Commission and any grant that may be awarded to the Commission for furthering the purposes of this Chapter.
- K. To hold at least four (4) meetings per year at a time and place to be determined by the Commission. (Ord. B-361, 12-15-81)

**2-7-4: PUBLIC MEETINGS, RECORDS AND CONFIDENTIALITY:**

- A. All official meetings of the Fort Madison Human Rights Commission shall be held and conducted in accordance with chapter 28A of the Code of Iowa, as amended, which is known as "Official Meetings Open to Public" or more commonly known as the "Open Meetings Law".
- B. All records of the Commission shall be public except:
  - 1. Complaints of discrimination, reports or investigations, statements and other documents or records obtained in investigation of any charge shall be closed records, unless a public hearing

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- is scheduled or district court action is commenced as provided in this Chapter.
- 2. The minutes of any session which is closed under the provisions of this Chapter shall be closed records.
- C. No member of the Commission or of its staff shall disclose the filing of a complaint, the information gathered during the investigation, or the endeavors to eliminate such discriminatory or unfair practice by conference, conciliation and persuasion, unless such disclosure is made in connection with the conduct of an investigation or after a public hearing is scheduled or district court action is commenced upon a complaint filed as provided in this Chapter. This Section does not prevent any complainant, respondent, witness or other person from publicizing the filing of the complaint or the matter therein complained of. (Ord. B-361, 12-15-81)

**2-7-5: UNFAIR EMPLOYMENT PRACTICES:**

- A. 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 an employee because of the age, race, sex, creed, color, national origin, religion or disability of such applicant or employee, unless

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A1) based upon the nature of the occupation. If a disabled person is qualified to perform a particular occupation, by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminatory practices prohibited by this subsection.

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 the age, race, creed, color, sex, 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, national origin, religion or disability are unwelcome, objectionable, not acceptable, or not solicited for employment or membership unless based on the nature of the occupation. If a disabled person is qualified to perform a particular occupation by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminatory practices prohibited by this subsection.

An employer, employment agency, or their employees, servants, 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 or offer of employment shall not discriminate among the disabled on the basis of race, color, creed, sex or national origin.

B. This Section shall not apply to:

1. Any employer who regularly employs less than four (4) individuals. For the purposes 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 member of his 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 family.

4. Any bona fide religious institution or its educational facility, 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 re-

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B4) 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 that person is considered by law to be an adult.

6. This Section shall not apply to age discrimination in a bona fide apprenticeship program if the employee is over forty five (45) years of age.

C. Notwithstanding the provisions of this Section, a State or Federal program designed to benefit a specific age classification which serves a bona fide public purpose shall be permissible. (Ord. B-361, 12-15-81)

**2-7-6: UNFAIR PRACTICES, ACCOMMODATIONS OR SERVICES:**

A. 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, national origin, religion or disability the accommodations, advantages, facilities, services, or privileges thereof, or otherwise to discriminate against any person because of race, creed, color, sex, national origin, religion or disability in the furnishing of such ac-

commodations, 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 religion, race, creed, color, sex, national origin 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 on religion, when such qualifications are related to bona fide religious purposes.

2. The rental or leasing to transient individuals of less than six (6) rooms within a single housing accommodation by the owner or occupant of such housing accommodation if the occupant or owner or members of his or her family reside therein. (Ord. B-361, 12-15-81)

**2-7-7: UNFAIR OR DISCRIMINATORY PRACTICES, HOUSING:**

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

A. To refuse to sell, rent, lease, assign or

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- A) sublease any real property or housing accommodation or part, portion or interest therein, to any person because of the race, color, creed, sex, religion, national origin or disability of such person.
- B. To discriminate against any person because of his race, color, creed, sex, religion, national origin or disability, in the terms, conditions or privileges of the sale, rental, lease assignment or sublease of any real property or housing accommodation or any part, portion or interest therein.
- C. 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 accommodation or any part, portion or interest therein, by persons of any particular race, color, creed, sex, religion, national origin or disability is unwelcome, objectionable, not acceptable or not solicited.
- D. To discriminate against the lessee or purchaser of any real property or housing accommodation or part, portion or interest of the real property or housing accommodation, or against any prospective lessee or purchaser of the property or accommodation, because of race, color, creed, religion, sex, disability, age or national origin of persons 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.

E. The provisions of this Section shall not apply to:

- 1. Any bona fide religious institution with respect to any qualifications it may impose based on religion, when such qualifications are related to a bona fide religious purpose.
- 2. The rental or leasing of a housing accommodation in a building which contains housing accommodations for not more than two (2) families living independently of each other, if the owner or members of his or her family reside in one of such housing accommodations.
- 3. The rental or leasing of less than six (6) rooms within a single housing accommodation by the occupant or owner of such housing accommodation, if he or members of his family reside therein.
- 4. Restrictions based on sex on the rental or leasing of housing accommodations by nonprofit corporations.
- 5. 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. (Ord. B-361, 12-15-81)

**2-7-8: UNFAIR CREDIT PRACTICES:**

It shall be an unfair or discriminatory practice for any:

- A. Creditor to refuse to enter into a consumer credit transaction or impose

