

THE GRINNELL HUMAN RIGHTS COMMISSION
Proposed BY-LAWS
Submitted to City Council on May 21, 2007

I. NAME AND AUTHORITY

- A. The name of this entity is the Grinnell Human Rights Commission, (hereinafter the Commission).

- B. The Commission is authorized by the City Council of the City of Grinnell in Chapter ??? of the Municipal Code and Chapter 216 of the Code of Iowa.

II. MEMBERSHIP

- A. See Section---- of the Municipal Code

- B. A Commissioner is expected to attend twelve (12) regularly scheduled monthly meetings during the calendar year.
 - 1. Three consecutive unexcused absences or four unexcused absences in a 12 month period will be reported to the Mayor.

 - 2. Attendance by each Commissioner shall be reported to the City Council annually.

III. OFFICERS

See Section---- of the Municipal Code

IV. PROTOCOL

- A. The following provisions govern the meetings of the Commission:
 - 1. The Commission shall hold at least one regular meeting during each calendar month, at a time and place to be determined by its rules.

 - 2. The Chairperson, the Vice-chairperson or any three members of the Commission may call a special meeting by giving at least one full day's notice to every member of the Commission. The call for a special meeting shall include an agenda, and only matters included on that agenda may be discussed at the meeting.

 - 3. A quorum of the Commission shall be four members. A majority of the members present and voting shall be necessary for the passage of any motion; the Chairperson shall vote as a member of the Commission.

 - 4. The Commission may adopt, amend or rescind such rules as may be necessary for the conduct of its business.

5. All meetings of the Commission shall be public meetings, except the Commission may close a meeting if it follows the procedures utilized by the City of Grinnell in accordance with the Code of Iowa (see Section 21.5).
6. All records and announcements of the Commission shall be public and kept on file in the office of the City Clerk except:
 - a. Complaints, reports of investigations, statements and other documents or records obtained in an investigation of any complaint;
 - b. The minutes of any session that is a closed meeting.

V. POWERS AND RESPONSIBILITIES OF THE COMMISSION

See Section ---- of the Municipal Code

VI. COMMISSION PROCEDURES IN RESPONSE TO A COMPLAINT

- A. An individual claiming to be aggrieved by a discriminatory practice, such individual's agent, or the City Attorney may file with the Commission 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 enable the Commission to identify the person charged (hereinafter the Respondent). The complaint must be filed within one hundred eighty days (180) after the alleged discriminatory practice occurs.
- B. The complaint may be amended at any time prior to the scheduling of the complaint for a public hearing; thereafter, it may be amended only upon the consent of the person or persons conducting the hearing.
- C. No member of the Commission shall disclose the filing of a complaint, the information gathered during the investigation or the endeavors to eliminate a discriminatory practice by pre-finding mediation or post-finding mediation except when necessary as part of the investigation or as required by the person conducting a public hearing.
- D. On the same day as the filing of the complaint with the City, a copy will be cross-filed by facsimile transmission with the Iowa Civil Rights Commission, and the Respondent notified of the complaint. Thereafter, appropriate case information will be sent.
- E. The Commission shall inform individuals filing complaints of:
 1. Appropriate federal and state enforcement agencies;
 2. The Complainant's right to file a charge of discrimination under federal civil rights laws either instead of, or in addition to, filing under the local ordinance; the right to retain a private attorney; the Commission's duty to forward a copy of the complaint to the Iowa Civil Rights Commission.
- F. The Commission shall inform both the Complainant and the Respondent of the Commission's pre-finding mediation process. If both the Complainant and Respondent agree, the matter shall proceed to pre-finding mediation. If the matter is

so resolved, the complaint shall be dismissed, if a dismissal is consistent with the result of the pre-finding mediation, and the Iowa Civil Rights Commission shall be informed. If either the Complainant or the Respondent refuses to participate in pre-finding mediation or the pre-finding mediation does not result in a dismissal of the complaint, the matter shall proceed to the next level (see below). If pre-finding mediation results in an agreement between the Complainant and the Respondent, the Commission shall close the case. The Secretary of the Commission shall report such fact to the Iowa Civil Rights Commission. All parties involved in the pre-finding mediation process shall be subject to the same rights, duties and obligations as are set forth in the Code of Iowa (see Chapter 679C).

- G. If the matter is not so resolved, the Chair of the Commission shall appoint an Investigating Committee which shall consist of one or more members of the Commission or someone appointed by the Commission to promptly investigate the allegations of discriminatory practice, as set forth in the complaint, to determine probable cause.
- H. During the investigation process, the Commission may:
 - 1. Issue subpoenas and order discovery to aid in investigations of allegations of discrimination. The subpoenas may be ordered to the same extent and are subject to the same limitations as subpoenas and discovery in a civil action in District Court. Should the party from whom the Commission has sought testimony or document production fail to deliver them at the prescribed time, the Commission may seek to obtain an order in District Court to enforce the subpoena;
 - 2. Seek a temporary injunction in District Court against a Respondent when it appears a Complainant may suffer irreparable injury as a result of an alleged violation of this Chapter.
- I. If it is determined after investigation that no probable cause exists for such complaint, the Commission shall notify the Complainant and the Respondent of such determination by certified mail. The case shall be closed and the Complainant shall be notified of such closure. The Complainant may object to the closure and request review of the decision to close the case, within ten days of the receipt of the written notice. If the Complainant makes such a timely request for review, the Respondent shall also be given opportunity to respond to the Complainant's objection.
- J. The City Attorney shall promptly review the Complainant's request and all relevant material. If, after review, the City Attorney determines that the complaint does not warrant further processing, the Commission shall close the file and notify the Complainant and the Respondent of the final decision of closure.
- K. If the City Attorney recommends further processing, the Investigating Committee shall make a new determination concerning probable cause. If the Investigating Committee now finds probable cause, the matter shall proceed. If, however, the Investigating Committee again finds no probable cause, the matter shall be closed.

- L. The Secretary of the Commission shall report the final disposition of this process to the Iowa Civil Rights Commission.
- M. After a finding of probable cause:
1. After a finding of probable cause, the Commission shall promptly notify both the Complainant and the Respondent by certified mail of the finding and shall inform the Complainant and the Respondent of the right to post-finding mediation. The notification shall further contain a suggested place, date and time for the mediation meeting.
 2. A mediator shall be designated in writing by the Commission to conduct formal post-finding mediation of a complaint filed under the Code. If formal post-finding mediation is conducted by a mediator pursuant to the Code, the confidentiality of all communications and documents is protected by the Code of Iowa (see Chapter 679C).
 3. If either the Complainant or the Respondent declines to participate in a mediation meeting, the Commission may designate one or more Commission members, or someone designated to represent the Commission, to constitute a Negotiating Committee. The Negotiating Committee shall meet with the Respondent to determine remedies to the discriminatory practices. The Complainant, or an agent of the Complainant, may be present at the meeting between the Negotiating Committee and the Respondent. If the Negotiating Committee and the Respondent reach an agreement as to the remedies, the Negotiating Committee shall present the proposed remedies to the Complainant. If the Complainant does not accept the proposed remedies, the Negotiating Committee shall report such fact to the Commission, and the matter shall proceed to a public hearing.
 4. Where the post-finding mediation process results in an agreement between the Respondent and the Commission concerning the remedies, such agreement shall be in writing and shall be signed by the Respondent or the Respondent's representative and by the Chair of the Commission, who shall have consulted the Complainant prior to signing the agreement. The Secretary of the Commission shall report the fact that an agreement has been reached to the Iowa Civil Rights Commission.
 5. If, after attempts at post-finding mediation, the mediator shall find that the efforts have failed, such failure shall be reported in writing to the Commission, and the matter shall proceed to public hearing.
- N. Public Hearing.
1. If it is determined that the case shall go to hearing, the Commission shall, at its discretion, appoint a Hearing Officer or a Hearing Committee. The Hearing Committee may not include anyone on the Investigating Committee or anyone actively engaged in post-finding mediation with either party to the complaint.
 2. The Commission shall issue and cause to be served on the Complainant and the Respondent by certified mail a written notice, together with

- a. A copy of the complaint as it may have been amended, and
 - b. Requiring the Respondent to answer to the charges of the complaint at a hearing before the Hearing Committee or before the designated Hearing Officer.
3. The hearing shall be conducted in accordance with the provisions of Chapter 17A, Code of Iowa, the Iowa Administrative Procedure Act, for contested cases. The burden of proof shall be on the Complainant.
 4. If a party fails to appear in a contested case proceeding after proper service of notice, the person(s) conducting the hearing may proceed and make a decision in the absence of the party.
 5. Opportunity shall be afforded to all parties to respond and present their positions on all issues involved. Parties may choose to be represented by counsel at their own expense. The Hearing Committee or Hearing Officer should use sound discretion in weighing the information of all parties, though the hearing will not be bound by the strict rules of evidence as applied in a court of law.
 6. The record in a case shall consist of the recording of the proceedings.
 7. Oral proceedings shall be open to the public and shall be recorded by electronic means or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party, with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings shall be filed with and maintained by the Commission for at least five years from the date of decision.
 8. Findings shall be based solely on the information in the record on matters officially noticed in the record.
 9. The person(s) conducting the hearing will make written findings and will state in writing their determination as to whether or not the Respondent discriminated against the Complainant.
 10. All members of the Commission, shall vote whether to adopt the written findings, and, if the findings are adopted by a majority of those present and voting, the Commission shall issue an order either affirming, modifying, or reversing the findings or dismissing the complaint or prescribing such remedies as are appropriate and allowed by law. Any Commissioner who has served on the Investigating Committee, the Negotiating Committee or the Hearing Committee is disqualified from participating in any review of the findings of the Hearing Committee.

O. Judicial Review.

A copy of the findings and of the order issued by the Commission shall be sent to the Iowa Civil Rights Commission. Any party with standing may institute judicial review proceedings by filing a petition in District Court within thirty days after the Grinnell Human Rights Commission has issued a final order. The judicial review procedure shall be as set out in the Code of Iowa (see Chapter 17A).

P. Judicial Enforcement.

If no proceeding to obtain judicial review is instituted within thirty (30) days from the service of an order of the Grinnell Human Rights Commission, the Commission may seek to obtain an order in District Court for the enforcement of Commission orders. An enforcement proceeding may be brought in the District Court to cease or desist from a discriminatory practice or to take other action.

- Q. At any time from receipt of a complaint until the beginning of a public hearing, the Commission may determine that because of (a) a lack of expertise on the part of the Commission, (b) conflict of interest, (c) complexity of a case or (d) any other reason deemed to be relevant by the Commission, the case shall be referred to the Iowa Civil Rights Commission or, with the approval of the City Manager, the Commission may refer any function in the complaint to an outside independent contractor or other outside agency. Such referral shall not be on the merits of a case, but shall operate to close a case without prejudice. Such closure shall not affect any other proceedings between a Complainant and a Respondent, and shall be reported to both the Complainant and the Respondent and the Iowa Civil Rights Commission, and thereafter, the Commission's involvement in the matter shall terminate.

VII. AMENDMENTS

These By-laws can be amended at any regular Commission meeting by a two-thirds (2/3) vote, provided that the amendment has been submitted in writing prior to the meeting at which it is to be acted upon, and such amendment is not in conflict with the Human Rights Ordinance. Such amended By-laws must be approved by the City Council.

VIII. CONSISTENCY WITH THE GRINNELL HUMAN RIGHTS ORDINANCE

If any section, provision or part of these By-laws shall be in contradiction of the Grinnell Human Rights Ordinance, the said portion in contradiction shall be of no force or effect.