

## Chapter 20½

**HUMAN RIGHTS COMMISSION; DISCRIMINATION**

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**Sec. 20½-1. Purpose.**

The purpose of this chapter is to provide for security for all individuals within the City of Ottumwa, Iowa, from discrimination because of race, color, religion, creed, sex, national origin or ancestry, marital status, age or mental or physical disability in connection with employment, public accommodations or services, housing, education and credit and, thereby to protect the personal dignity of these individuals, to ensure their full productive capacity, to preserve the public safety, health and general welfare, and to promote the interests, rights and privileges of individual citizens within the city.

(Ord. No. 2296, § 1, 8-25-76; Ord. No. 2541, § 1, 1-4-83)

**Sec. 20½-2. Definitions.**

When used in this chapter, unless the context otherwise requires:

*Commission:* The City of Ottumwa, Iowa, Human Rights Commission.

*Commissioner:* A member of the commission.

*Complainant:* A person who has filed a charge as provided by section 20½-14 of this chapter.

*Court:* The Wapello County, Iowa, district court or judge thereof if the court is not in session.

*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 conditions of a person which constitute a substantial handicap, but is unrelated to such person's ability to engage in a particular occupation.

*Educational institution* includes any public preschool, or elementary, secondary, or merged area school or area 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.

*Employee* means any person employed by an employer.

*Employer* means the City of Ottumwa, Iowa, or any board, commission, department or agency thereof, and every other person employing employees whose employment or any part thereof is within this city.

*Employment agency* means any person undertaking to procure employees or opportunities to work for any other person or any person holding himself or itself to be equipped to do so.

*Family:* Any individual and his spouse, and the lineal ascendants and descendants of either who live in the same household.

*Housing* shall mean any building, structure or facility, or portion thereof, that is used or occupied or is intended, arranged or designed to be used or occupied as the home, residence or sleeping place of one or more individuals, groups or families, and any vacant land offered for sale or lease for the purpose of constructing or locating such building, structure or facility and includes any interest in housing as so defined, fee simple leasehold or other.

*Labor organization* means any organization which 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. This definition shall not include:

- (1) Any employer who regularly employs less than four individuals. For 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 with respect to any qualifications for employment based on religion when such qualifications are related to a bona fide religious purpose.

*Person* shall mean one or more individuals, partnerships, associations, corporations, legal representatives, trustees, receivers and the State of Iowa and all political subdivisions and agencies thereof.

*Public accommodations* means 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 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, offers services, facilities or goods to the general public for a fee or charge or gratuity, it shall be deemed a public accommodation during such period of use. This definition shall not include:

- (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 rooms within a single housing accommodation by the occupant or owner or members of his family residing therein.

*Unfair practice or discriminatory practice* shall mean those practices specified as unfair or discriminatory in this chapter.

(Ord. No. 2296, § 2, 8-25-76; Ord. No. 2541, § 2, 1-4-83)

Cross reference—Definitions generally, § 1-2.

### **Sec. 20½-3. Commission established**

The Ottumwa Human Rights Commission shall consist of nine members appointed by the mayor with the approval of the city council who shall serve staggered terms with a third of the commission being chosen to commence serving on January 1 of each year for a three-year term. In addition, any members of the fair housing board

abolished by Ordinance Number 2541 may continue to serve out their unexpired terms now as members of this human rights commission, and the compliment of this commission may be expanded to accommodate said persons. When the term of the office of said former fair housing board members expires, the position will lapse so that said commission size eventually will reduce to nine in number where it shall remain.

(Ord. No. 2296, § 3, 8-25-76; Ord. No. 2541, § 3, 1-4-83; Ord. No. 2671, § 11, 7-21-87; Ord. No. 2681, § 5, 1-19-88)

### **Sec. 20½-4. Compensation; expenses.**

The members of the commission shall serve without compensation, provided that they may receive actual and necessary expenses incurred within the limits established in the city budget.

(Ord. No. 2296, § 4, 8-25-76)

### **Sec. 20½-5. Election of officers.**

The commission shall elect from its own membership at its regular January meeting its chairman, vice-chairman and secretary, each to serve for a term of one year.

(Ord. No. 2296, § 5, 8-25-76)

### **Sec. 20½-6. Meetings; rules; quorum.**

(a) The commission shall hold a regular meeting each month at a time and place determined in its rule.

(b) The chairman, the vice-chairman, or any three members of the commission may call a special meeting by giving at least one clear day notice to every member of the commission. The call for a special meeting shall include an agenda, and only matters included in that agenda may be discussed at the meeting.

(c) 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 chairman shall vote as a member of the commission.

(d) The commission may adopt, amend or rescind such rules as may be necessary for the conduct of its business.

(Ord. No. 2296, § 6, 8-25-76; Ord. No. 2541, § 4, 1-4-83)

**Sec. 20½-7. Meetings.**

(a) All meetings and hearings of the commission shall be public meetings subject to the provisions of I.C.A. ch. 21. In addition, all hearings conducted pursuant to the provisions hereinafter shall be in accord with I.C.A. ch. 17A, for contested cases.

(b) The members of the commission and its staff shall not 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 such investigation or at a hearing.

(Ord. No. 2296, § 7, 8-25-76; Ord. No. 2541, § 5, 1-4-83)

**Sec. 20½-8. Staff; personnel.**

(a) The commission shall have the power to appoint a director.

(b) The director with the approval of the commission may appoint a staff. Except as to the director, all appointments, promotions, demotions, suspensions or removals shall be pursuant to the civil service laws of the State of Iowa and the personnel rules of the city. All appointees shall be employees of the city and be subject to its rules and regulations including any collective bargaining agreements if applicable.

(c) Reserved.

(d) No appointments shall be made unless the budget so provides funds to pay the same.

(e) The commission shall annually prepare a budget for the next fiscal year, July 1 to June 30. The budget shall be subject to city council approval. The procedures for said preparation and submission shall be in accord with the rules and guidelines established by the finance director of the city.

(f) All financial reporting and accounting methods and procedures shall be under the direction and supervision of the finance director of the city and all such accounting and reporting methods and procedures shall conform with generally accepted accounting principles (GAAP).

(Ord. No. 2296, § 8, 8-25-76; Ord. No. 2541, § 5A, 1-4-83)

**Sec. 20½-9. Powers and duties.**

The commission shall have the following powers and duties:

- (1) To prescribe the duties of a director and appoint and prescribe the duties of such investigators and other employees and agents as the commission shall deem necessary for the enforcement of this chapter.
- (2) To receive, investigate and finally determine the merits of complaints, alleging unfair or discriminatory practices.
- (3) 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 and to attempt the elimination of such discrimination by education and conciliation.
- (4) To seek a temporary injunction 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.
- (5) 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 witness and compel their attendance at such hearings, to administer oaths and take 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 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 shall in a proper case issue the subpoena. Refusal to obey such subpoena shall be subject to punishment for contempt.

- (6) 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 and ethnic groups of the city and which shall tend to minimize or eliminate discrimination in public accommodations, employment, apprenticeship and on-the-job training programs, vocational schools, because of race, creed, color, sex, national origin, religion, ancestry or disability.
- (7) To prepare and transmit to the mayor and council from time to time, but not less than once each year, reports describing its proceedings, investigations, hearings conducted and the outcome thereof, decisions rendered and the other work performed by the commission.
- (8) To make recommendations to the mayor and council for such further legislation concerning discrimination because of race, sex, creed, color, national origin, religion, ancestry, marital status, age or disability, as it may deem necessary and desirable.
- (9) To cooperate, within the limits of any appropriations made for its operation, with other agencies or organizations, both public and private, whose purposes are not inconsistent with those of this chapter, and in the planning and conducting of programs designed to eliminate racial, religious, cultural and intergroup tensions.

- (10) To adopt, publish, amend and rescind regulations consistent with and necessary for the enforcement of this chapter.
- (11) To receive, administer, dispense and account for any funds that may be voluntarily contributed to the commission and any grants that may be awarded the commission for furthering the purposes of this chapter with the approval of the executive council.
- (12) To defer a complaint to the Iowa Civil Rights Commission. See section 20½-17.
- (13) To accept or refuse to accept a case referred to it by the Iowa Civil Rights Commission. See section 20½-17.

(Ord. No. 2296, § 9, 8-25-76; Ord. No. 2541, § 6, 1-4-83)

#### **Sec. 20½-10. Declaration of policy.**

The human rights commission shall cooperate with the Iowa State Civil Rights Commission, the United States Civil Rights Commission, the Federal Equal Employment Opportunity Commission and other agencies with similar purposes.

(Ord. No. 2296, § 10, 8-25-76)

#### **Sec. 20½-11. 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, sex, creed, color, national origin, religion, marital status, age or disability the accommodations, advantages, facilities, services or privileges thereof, or otherwise to discriminate against any person because of race, sex, creed, color, national origin, religion, marital status, age 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 persons of any particular race, sex, creed, color, national origin, religion,

marital status, age or disability is unwelcome, objectionable, not acceptable, or not solicited.

(b) "Public accommodation" means 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 gratuity, it shall be deemed a public accommodation during such period of use.

(c) 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 rooms within a single housing accommodation by the occupant or owner of such housing accommodation if the occupant or owner or members of his family reside therein.

(Ord. No. 2296, § 11, 8-25-76)

**Editor's note**—The provisions of this section appear to be duplicated by provisions now codified in §§ 20½-12.3 and 20½-12.4.

### **Sec. 20½-12. Unfair employment practices.**

It shall be an unfair or discriminatory practice for any:

- (1) Persons 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 age, race, creed, color, sex, national origin, religion or disability of

such applicant or employee, unless 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 discriminating practices prohibited by this subsection.

- (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 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 discriminating practices prohibited by this subsection. 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 or offer of employment shall not discriminate among the disabled on the basis of race, color, creed, sex or national origin.
- (4) This section shall not prohibit discrimination on the basis of age if the person subject to the discrimination is under the age of 18 years, unless that person is considered by law to be an adult.

- (5) 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.
- (6) This section shall not apply to age discrimination in bona fide apprenticeship employment programs if the employee is over 45 years of age.
- (7) This section shall not apply to:
  - a. Any employer who regularly employs less than four individuals. For purposes of this subsection, individuals who are members of the employer's family 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 his family reside therein during such employment.
  - c. The employment of the individuals to render personal service to the person of the employer or members of his family.
  - d. 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 an 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.

(Ord. No. 2296, § 12, 8-25-76; Ord. No. 2541, § 7, 1-4-83)

**Sec. 20½-12.1. Unfair discriminatory practices in education.**

It shall be unfair or discriminatory practice for any educational institution to discriminate on the

basis of sex in any program or activity. Such discriminatory practices 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, discrimination 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.

(Ord. No. 2541, § 8, 1-4-83)

**Sec. 20½-12.2. Unfair credit practices.**

It shall be 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 or physical disability.
- (2) Person authorized or licensed to do business in this state pursuant to I.C.A. ch. 524, 533, 534, 536, or 536A to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex or physical disability.
- (3) 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 or sex. 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 title XX.

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. No. 2541, § 9, 1-4-83)

**Sec. 20½-12.3. Unfair practices in accommodations or services.**

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, sex, creed, color, national origin, religion, marital status, age or disability the accommodations, advantages, facilities, services or privileges thereof, or otherwise to discriminate against any person because of race, sex, creed, color, national origin, religion, marital status, age 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 persons of any particular race, sex, creed, color, national origin, religion, marital status, age or disability is unwelcome, objectionable or not solicited.

(Ord. No. 2541, § 10, 1-4-83)

**Sec. 20½-12.4. Unfair or discriminatory practices in housing.**

(a) It shall be an 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 rep-

resentatives by power of attorney or appointment, or any person acting under court order, deed of 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 person because of the race, color, creed, religion, national origin, disability or sex of such person.
- (2) To discriminate against any person because of his color, race, creed, religion, national origin, disability or sex in 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.
- (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 persons of any particular race, color, creed, religion, national origin, disability or sex is unwelcome, objectionable, not acceptable or not solicited.
- (4) To include in the terms or conditions of any sale, lease, sublease, rental, assignment or other transfer of housing any condition or provision that purports to forbid or discourage the ownership, leasing, possession, occupancy or use of such housing by persons because of race, color, religion, ancestry or national origin, disability or sex.
- (5) Directly or indirectly to cause or coerce, or attempt to cause or coerce, any person to do any act declaring [declared] to be an unlawful housing practice, or to engage in economic reprisal or otherwise retaliate, or to cause or coerce or attempt to cause or coerce another person to engage in economic reprisal or otherwise retaliate, against any person because such person has opposed an unlawful housing practice or has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing under this chapter.