

Chapter 4.04

HUMAN RIGHTS

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Section 4.04.010 Definitions.

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

1. "Commission" means the Sioux City Human Rights Commission.
2. "Commissioner" means a member of the commission.
3. "Court" means the district court in and for Woodbury County in the state of Iowa
4. "Covered multifamily dwelling" means any of the following:
 - a. A building consisting of four or more dwelling units if the building has one or more elevators; and
 - b. The ground floor units of a building consisting of four or more dwelling units.
5. "Deferral agency" means the Sioux City Human Rights Commission acting pursuant to a contractual agreement with the Iowa Human Rights Commission to receive such complaints as the Iowa Human Rights Commission may refer, and to process them in accordance with this chapter.
6. "Disability" means, with respect to a person, a physical or mental impairment which substantially limits one or more of such person's major life activities; a record of having such an impairment; or being regarded as having such an impairment.
7. "Employee" means any person employed by an employer.
8. "Employer" means any person in this city employing employees.
9. "Employment agency" means any person undertaking to procure employees or opportunities to work for any other person or any person holding itself to be equipped to do so.
10. "Familial status" means one or more individuals under the age of eighteen domiciled with one of the following:

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- a. A parent or another person having legal custody of the individual or individuals.
 - b. The designee of the parent or the 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 years.

11. "Housing accommodation" means any building or portion thereof, including but not limited to trailer courts, trailer parks, or mobile home courts, whether such building or portion is constructed or is to be constructed, which is used or intended for use as a residence or sleeping place of one or more persons, and any real property usable for purposes of human habitation or for the construction or placing thereon of a housing accommodation.

12. "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.

13. "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11, receivers, and fiduciaries.

14. "Public accommodation" means each and every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods for a fee or charge to nonmembers of any organization or association utilizing the place, establishment, or facility, provided that any place, establishment, or facility that caters or offers services, facilities, or goods to the nonmembers gratuitously shall be deemed a public accommodation if the accommodation receives 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 nonmembers for fee or charge or gratuitously, it shall be deemed a public accommodation during such period.

15. "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".

16. "Unfair practice" or "discriminatory practice" means those practices specified as unfair or discriminatory in sections 4.04.040; 4.04.050; 4.04.060; 4.04.070; 4.04.090; 4.04.100; 4.04.110; and 4.04.120. (Ord. 2001-0459; 2000-9018; 99-7659; 91/T-9425; S-32708, 1977)

Section 4.04.020 Establishment - appointment - composition - terms.

1. There is established in the city government of the city a commission to be known as the Sioux City Human Rights Commission.

2. This commission shall consist of eleven members broadly representative of the community at large including groups and classes protected by this chapter.

3. Commission members shall be appointed by the city council of the City. All appointments shall be for staggered three year terms. Members whose terms expire shall continue to serve until a successor is appointed by the city council. No persons may serve more than two full consecutive terms on the commission.

4. The commission shall elect, by majority vote, a chairperson and vice-chairperson from among its members. Officers shall serve in their respective offices for a term of one year, or until their successors shall be appointed and qualified.

5. Any six members of the commission shall constitute a quorum for the purposes of conducting business. The chairperson shall vote as a member of the commission.

6. All matters on which the commission is required to take action shall require a majority vote.

7. All commission members shall serve without compensation, except that the executive director shall be compensated in such amount as the commission shall fix.

8. If any member dies or resigns, or is removed, a successor shall be appointed by the city council to serve for the unexpired period of the member's term.

9. The expense of activity shall be paid out of funds appropriated for that purpose. The commission shall in addition be authorized to receive gifts and grants from any other source to carry on its work. All gifts and grants received by the commission shall be deposited with the city treasurer to be credited to the

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commission's account. All disbursement's of commission funds shall utilize the claim and warrant procedure of the city.

10. The commission may name subcommittees which in its judgment will aid in effectuating the purposes of this chapter and may empower them to study the problems of prejudice, intolerance, bigotry and discrimination in the many fields of human relationships within the purview of this chapter. (Ord. 99-7659; 98/U-6465; 91/T-9425; S-32708, 1977)

Section 4.04.030 Powers and duties.

The commission shall have the following powers and duties:

1. To appoint an executive director subject to confirmation by the city council; to authorize the hiring of such additional personnel as deemed necessary, subject to budgetary limitations; and to remove such executive director for misdemeanor, incompetency, inattention to duty or failure to obey the policies of the commission.
2. To receive, investigate, mediate, 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, credit practices, and housing in this city 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 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 the respondent's request. Such hearings may be held by the commission, by any commissioner or by any hearing examiner appointed by the commission; however, the commission shall retain the sole power to issue and seek enforceable subpoenas. If a witness either fails or refuses to obey a subpoena issued by the commission, the commission may petition the district court having jurisdiction for issuance of a subpoena and the court 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, or housing because of race, creed, color, sex, national origin, religion, ancestry or disability.
7. To prepare and transmit to the mayor and to the city council from time to time, but not less often 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 city council for such further legislation concerning discrimination because of race, creed, color, sex, national origin, religion, ancestry or disability as it may deem necessary and desirable.
9. To co-operate, 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 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.
12. To create such advisory committee as will aid in effectuating the purposes of this chapter, which may be authorized to study the problems of discrimination because of age, race, religion, creed, color, sex, national origin, ancestry and disability and which may be authorized to foster through community effort or otherwise, good will, cooperation and conciliation among the groups and elements of the population of this city, and make

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recommendations to the commission for the development of rules and procedures, and for programs of formal and informal education which the commission may recommend to the city council. Such advisory committee shall be composed of representative citizens serving without pay. The commission may itself make the studies and perform the acts authorized by this subsection. The commission may, by voluntary conference with the parties in interest, endeavor by conciliation and persuasion to eliminate discrimination in all the stated fields and to foster good will and cooperation among all elements of the population of the city.

13. To issue subpoenas and order discovery as provided by this section in aid of investigations and hearings of alleged unfair or discriminatory housing or real property practices. The subpoenas and discovery 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.

14. To enter into agreements as a deferral agency with the Iowa Civil Rights Commission to receive such complaints as the Iowa Commission may refer; to investigate and process them in the same manner as a complaint originally filed with the Sioux City Human Rights Commission and to report its investigative results, findings, conclusions, recommendations and orders to the Iowa Civil Rights Commission.

15. To utilize volunteers to aid in the conduct of the commission's business including case processing functions such as intake, screening, investigation, and mediation. (Ord. 2003-0051; 2000-9018; 99-7659; 92/T-10624; 91/T-9425; S-32708, 1977)

Section 4.04.040 Unfair or discriminatory employment practices.

1. It shall be an unfair or discriminatory practice for any:

a. Person to refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the 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 person with a disability 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.

b. 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.

c. 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 person with a disability 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 persons with disabilities, when other applicants have available to them other employment compatible with their ability which would not be available to persons with disabilities because of their disabilities. Any such employment or offer of employment shall not discriminate among persons with disabilities on the basis of race, color, creed, sex, or national origin.

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

2. Employment policies relating to pregnancy and childbirth shall be governed by the following:

a. A written or unwritten employment policy or practice which excludes from employment applicants or employees because of the employee's pregnancy is a prima facie violation of this chapter.

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b. Disabilities caused or contributed to by the employee's pregnancy, miscarriage, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority, and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to a disability due to the employee's pregnancy or giving birth, on the same terms and conditions as they are applied to other temporary disabilities.

c. Disabilities caused or contributed to by legal abortion and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any temporary disability or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority, and other benefits and privileges, reinstatement, and payment under any temporary disability insurance or sick leave plan, formal or informal, shall be applied to a disability due to legal abortion on the same terms and conditions as they are applied to other temporary disabilities. The employer may elect to exclude health insurance coverage for abortion from a plan provided by the employer, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.

d. An employer shall not terminate the employment of a person disabled by pregnancy because of the employee's pregnancy.

e. Where a leave is not available or a sufficient leave is not available under any health or temporary disability insurance or sick leave plan available in connection with employment, the employer of the pregnant employee shall not refuse to grant to the employee who is disabled by the pregnancy a leave of absence if the leave of absence is for the period that the employee is disabled because of the employee's pregnancy, childbirth, or related medical conditions, or for eight weeks, whichever is less. However, the employee must provide timely notice of the period of leave requested and the employer must approve any change in the period requested before the change is effective. Before granting the leave of absence, the employer may require that the employee's disability resulting from pregnancy be verified by medical certification stating that the employee is not able to reasonably perform the duties of employment.

3. This section shall not prohibit discrimination on the basis of age if the person subject to the discrimination is under the age of eighteen years, unless that person is considered by law to be an adult.

4. 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.

5. This section shall not apply to age discrimination in bona fide apprenticeship employment programs if the employee is over forty-five years of age.

6. 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 the employer's family reside therein during such employment.

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

d. Any bona fide religious institution or its educational 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. 99-7659; 91/T-9425; S-32708, 1977)

Section 4.04.050 Unfair practices - accommodations or services.

1. 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:

a. 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 accommodations, advantages, facilities, services, or privileges.

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

2. This section shall not apply to:

a. Any bona fide religious institution with respect to any qualifications the institution may impose based on religion when such qualifications are related to a bona fide religious purpose.

b. 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 that person's family reside therein. (Ord. 99-7659; 91/T-9425; S-32708, 1977)

Section 4.04.060 Unfair or discriminatory housing practices.

It shall be an unfair or discriminatory practice for any person, 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 salespersons, attorneys, auctioneers, agents or representatives 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, sublease, refuse to negotiate, or to otherwise make unavailable, or deny 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, disability, or familial status of such person.

2. To discriminate against any person because of the person's race, color, creed, sex, religion, national origin, disability, or familial status, 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 in the real property or housing accommodation or in the provision of services or facilities in connection with the real property or housing accommodation.

For purposes of this section, "person" means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.

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

4. 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 the 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. (Ord. 2001-0459; 99-7659; 91/T-9425; S-32708, 1977)

Section 4.04.070 Additional unfair or discriminatory housing practices.

1. A person shall not for profit induce or attempt to induce another person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, creed, sex, religion, national origin, disability, or familial status.

2. A person shall not represent to a person of a particular race, color, creed, sex, religion, national origin, disability, or familial status that a dwelling is not available for inspection, sale, or rental when the dwelling is available for inspection, sale, or rental.

3. a. A person shall not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to a buyer or renter because of a disability of any of the following persons:

(1) That buyer or renter.

(2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.

(3) A person associated with that buyer or renter.

b. A person shall not discriminate against another person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of any of the following persons:

