

City of Des Moines, Iowa Municipal Code
Chapter 62 HUMAN RIGHTS

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ARTICLE I. IN GENERAL

Sec. 62-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commission or human rights commission means the Des Moines Human Rights Commission.

Covered multifamily dwelling means:

- (1) A building consisting of four or more units of such building having one or more elevators; and
- (2) Ground floor units in other buildings consisting of four or more units.

Disability means the physical or mental impairment that substantially limits one or more of the major life activities of a person; a record of this impairment; or being regarded as having such an impairment. Disability does not include current, illegal use of or addiction to a controlled substance as defined in section 102 of the Controlled Substance Act (21 USC 802). In reference to employment, under this chapter, the term "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.

Discriminate, discrimination, or discriminatory means any significant and unreasonable difference in treatment because of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status and includes any and all of the illegal discriminatory practices enumerated in this chapter. This term shall also mean to separate, to segregate, or to make a distinction against any persons, because of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status. This term shall also include any significant and unreasonable difference in treatment because of a person's association with another of a different age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status.

Dwelling means any building, structure, 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 occupied as or designed or intended for occupancy as a residence or sleeping place of one or more persons or families and any vacant land or real estate which is offered for sale, rent, or lease for the construction or location thereof of any such building, structure, or portion thereof or real property usable for purposes of human habitation or for the construction thereon of a residential facility.

Employee includes any person employed by an employer but does not include an individual employed by that person's parents, spouse, or child or in the domestic service of any person.

Employer includes, but is not limited to, any person in this city employing four or more persons; any person acting directly or indirectly for an employer; and the city and any other governmental entity or any board, commission, department, or agency thereof employing persons whose employment or any part thereof is within this city.

Employment agency includes any person or governmental agency undertaking, with or without compensation, to procure employees or opportunities to work, or to procure, recruit, refer, or place employees or any person holding itself equipped to do so.

Familial status means one or more individuals who have not attained the age of 18 years being domiciled with:

- (1) A parent or another person having legal custody of such individual; or
- (2) The designee of such parent or other person having such custody of the individual, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Financial institution includes any person regularly engaged in the business of lending money or guaranteeing such loans on dwellings.

Illegal discriminatory practice means those practices specified as illegal or discriminatory in articles III and V of this chapter and in sections 62-101, 62-102, 62-103, 62-104, 62-166, 62-168, 62-169 of this chapter or as otherwise specified as illegal in this chapter.

Labor organization includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions or privileges of employment or of mutual aid or protection in connection with employment.

Owner includes the owner, lessee, sublessee, assignee, agent, or other person having the right to sell, rent, lease, or transfer any housing accommodation or real property within the corporate limits.

Person includes, but is not limited to, one or more individuals, partnerships, associations, labor organizations, corporations, legal representatives, mutual companies, trusts, trustees, trustees in bankruptcy or receivers, fiduciaries, joint stock companies, unincorporated organizations, and the state, county and city and any other governmental entity and any of their respective departments, divisions, boards, commissions, officials, agents and employees.

Public accommodations includes any person who caters or offers his or her goods, services, facilities, privileges, advantages, and accommodations to the public, (including but not limited to) state and local governmental units and tax-supported district of whatever kind. (see Iowa Code §216.2(a)(12))

Real estate broker includes any person, licensed or not, who, either for a fee or other valuable consideration or without fee, sells, purchases, exchanges, rents, negotiates, or attempts to negotiate the sale, purchase, exchange, or rental of a dwelling as a regular practice, whether for himself or herself or another person, or who acts as a go-between for a would-be-purchaser and seller of a dwelling.

Real estate salesperson or agent includes any person, licensed or not, employed by a real estate broker to perform or to assist in the performance of any or all of the functions of a real estate broker, whether individually or for another person, or who acts as a go-between for would-be-purchasers and sellers of housing accommodations or real property on behalf of a real estate broker or individually.

Respondent means the person accused in any illegal discriminatory practices and any other person identified in the course of investigation and notified as required.

Sex means gender. It includes but is not limited to pregnancy, childbirth, and related medical conditions; and women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all purposes covered by this chapter.

Sexual orientation means actual or perceived heterosexuality, homosexuality or bisexuality. Sexual orientation does not include participation in acts which are prohibited by law. (C54, § 2-418; O.5775; C62, § 2-418; O.7738; C62, § 25A-1; O.8291, 8565, 8920; C75, § 2-312; O.9337; C79, § 2-312; O.10,244; C91, § 2-312; O.11,784, 12,072; C00, § 62-1; O.13,922, 13,965)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 62-2. Complaints filed.

- (a) Any person claiming to be aggrieved by an illegal discriminatory practice, as defined in this chapter, may file, personally or by an attorney, with the human rights commission or any staff member of the commission, a sworn complaint setting forth the particulars of the alleged discrimination or discriminatory practices and including the name and address of the person alleged to have committed the illegal discriminatory practice and such other particulars as may be required by the commission. Upon the filing of the complaint, the complainant shall be informed of the confidentiality of the commission's investigation and conciliation efforts, and the complainant's cooperation in maintaining the nonadversarial environment such confidentiality fosters shall be sought by commission staff.
- (b) Any complaint must be filed within 180 days after the complainant knew or should have known of the most recent act constituting the alleged illegal discriminatory practice.
- (c) A complaint may be amended at any time before the final order is entered.

(C62, § 2-430; O.7079, 7738; C62, § 25A-13; O.8920; C75, § 2-321; O.9337; C79, § 2-321; C85, § 2-321; O.11,468; C91, § 2-321; C00, § 62-2; O.13,922)

Sec. 62-3. Procedure for processing complaints.

- (a) Whenever a verified complaint is filed pursuant to this chapter, a true copy of the complaint shall be transmitted to the person alleged to have committed the illegal discriminatory practice, referred to as the "respondent," within ten days with a bill of particulars setting out the dates and facts upon which the complaint is based. Upon receipt of the complaint, the respondent shall be advised of the right to file a written response to the allegations of the complaint, of the right to counsel and the right to present evidence at any stage of the investigation and hearing and shall be informed of the confidentiality of the human rights commission's investigation and conciliation efforts and the respondent's cooperation in maintaining the nonadversarial environment such confidentiality fosters shall be sought by commission staff.
- (b) The executive director of the human rights commission shall appoint a member of the commission staff who, under the supervision of the executive director, shall make a prompt and full investigation of the alleged illegal discriminatory practice and forward to the executive director a summary of the investigation. If a complainant or respondent fails or refuses to provide information requested for an investigation, the executive director may issue a subpoena for that information.
- (c) The executive director and staff member may determine during the investigation that the complaint has no validity or is not within the jurisdiction of the commission. Upon such determination the complaint may be closed with a ministerial finding of no probable cause or no jurisdiction and the complainant shall be so notified. The complainant may appeal such ministerial finding to the chair and vice-chair of the commission within ten days of the notification.
- (d) If it is determined by the executive director that no probable cause exists for the complaint, the complainant and respondent shall be promptly notified in writing and the case shall be closed unless this finding is appealed to the chair and vice-chair of the commission within ten days of the notification.
- (e) For an appeal from a finding of no probable cause, the chair and vice-chair of the commission shall consider the complaint. If it is determined that no probable cause exists, the chair and vice-chair shall enter a final order of no probable cause and shall promptly notify the complainant and respondent. If the chair and vice-chair of the commission determine that probable cause exists, the staff shall be directed to proceed with conciliation and persuasion.
- (f) If the executive director determines that probable cause exists for crediting the allegations in the complaint, the staff shall proceed with conciliation and persuasion under the executive director's supervision.
- (g) An investigation shall be deferred if the same complaint has been filed with an agency with duties and powers similar to the commission which is proceeding with its own investigation of the complaint. The commission's investigation may be stayed pending the completion of the other agency's investigation if it is determined by the executive director to be in the best interests of the commission.

(C54, § 2-423; O.5775; C62, § 2-423; O.7738; C62, § 25A-14; O.8291, 8920; C75, § 2-322; O.9337; C79, § 2-322; C85, § 2-322; O.11,468; C91, § 2-322; O.11,784; C00, § 62-3; O.13,922)

Sec. 62-4. Additional proceedings on housing discrimination.

- (a) The human rights commission shall investigate the alleged discriminatory housing practice and make its determination no later than 100 days after a complaint is filed unless any of the following applies:
 - (1) It is impracticable to make the determination within that time period;
 - (2) The commission has approved a mediation agreement relating to the complaint; or
 - (3) If the commission is unable to complete the investigation within the time period, provided the commission shall notify the complainant and respondent in writing of the delay.
- (b) The commission, upon written notice, may amend the complaint to join a person, not named in the complaint, as an additional or substitute respondent if, in the course of the investigation, the commission determines that the person should be alleged to have committed an illegal discriminatory practice. The procedure shall be as follows:
 - (1) Notice shall be served no later than ten days after the filing of an amended complaint or identification of such substitute or additional respondent.
 - (2) The commission shall include in a notice to a respondent an explanation of the basis for the determination that the person is properly joined as a respondent.
 - (3) The added or substitute respondent may file, not later than ten days after receipt of the notice, an answer to such complaint.
- (c) The commission shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the commission, to the extent feasible, engage in mediation with respect to the complaint in accordance with the following:
 - (1) A mediation agreement is an agreement between a respondent and the complainant and is subject to commission approval.
 - (2) A mediation agreement may provide for binding arbitration or other method of dispute resolution. Dispute resolution that results from a mediation agreement may authorize appropriate relief, including monetary relief.
 - (3) A mediation agreement shall be made public unless the complainant and respondent agree otherwise, and the commission determines that disclosure is not necessary to further the purposes of this chapter relating to unfair or discriminatory practices in housing or real estate.
 - (4) The proceedings or results of mediation shall not be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons who are party to the mediation.
- (d) When the commission has reasonable cause to believe that a respondent has breached a mediation agreement, the commission shall refer this matter to its attorney with a recommendation that a civil action be filed for the enforcement of the agreement. The attorney may commence a civil action in the appropriate district court not later than the expiration of 90 days after referral of the breach.
- (e) If the commission concludes, following the filing of a complaint, that prompt judicial action is necessary to carry out the purposes of this chapter relating to illegal or discriminatory housing or real estate practices, the commission may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint in accordance with the following:

- (1) Upon receipt of the commission's authorization, the commission's attorney shall promptly file the action.
 - (2) A temporary restraining order or other order granting temporary relief under this section is governed by the applicable Iowa rules of civil procedure.
 - (3) The filing of a civil action under this section does not affect the initiation or continuation of administrative proceedings in regard to an administrative hearing.
 - (f) The commission shall determine based on the facts whether probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur in accordance with the following:
 - (1) The commission shall prepare a final investigative report.
 - (2) A final report under this section may be amended by the commission if additional evidence is later discovered.
 - (g) If the commission determines that probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall immediately issue a determination unless the commission determines that the legality of a zoning or land use law or ordinance is involved. If the commission determines that the matter involves the legality of a state statute, the commission shall not issue a determination and shall immediately refer the matter to the attorney for the commission for appropriate action.
 - (h) A determination issued by the commission shall:
 - (1) Consist of a short and plain statement of the facts on which the commission has found probable cause to believe that a discriminatory housing or real estate practice has occurred or is about to occur.
 - (2) Be based on the final investigative report.
 - (3) Not be limited to the facts or grounds alleged in the complaint.
 - (i) Not later than 20 days after the commission issues a determination, unless it is impracticable to do, the commission shall send a copy of the determination with information concerning the election under section 62-106 of this chapter to the following persons:
 - (1) Each respondent, together with a notice of the opportunity for a public hearing as provided under this section and section 62-8 of this article.
 - (2) Each aggrieved person on whose behalf the complaint was filed.
- If the commission is unable to send a copy of the determination within 20 days, it shall notify the parties in writing of the delay.
- (j) If the commission determines that no probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall promptly dismiss the complaint.
 - (k) The commission shall not issue a determination under this section regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing or real estate practice.
 - (1) If a timely election is not made under section 62-106 of this chapter, the commission shall provide an opportunity for a hearing on the charges in the complaint in accordance with the following:
 - (1) Except as provided by subsection (1)(2) of this section, the hearing shall be conducted in accordance with this section and section 62-8 of this article.

- (2) A hearing under this section shall not be continued regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved person under federal or state law seeking relief with respect to that discriminatory housing or real estate practice.
 - (m) If the commission determines at a hearing under this section that a respondent has engaged or is about to engage in a discriminatory housing or real estate practice, the commission may order the appropriate relief, including actual damages, reasonable attorney's fees, court costs, and other injunctive or equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent in an amount not to exceed those established by I.C. § 216.15A.
- (C91, § 2-322.01; O.11,784, 12,072; C00, § 62-4; O.13,922)

Sec. 62-5. Conciliation and persuasion.

Immediately after a finding of probable cause pursuant to this article or sooner, if the complainant and respondent consent, the staff and the executive director of the human rights commission shall endeavor to eliminate the illegal discriminatory practice by conciliation and persuasion. If the complaint is successfully resolved to the satisfaction of the commission, complainant and respondent through conferences, conciliation and persuasion, it shall be formalized in a binding written agreement signed by a representative of the commission, complainant and respondent, and the commission shall furnish both the complainant and respondent with a copy of terms of the conciliation. (C62, §§ 2-432, 2-433; O.7079; C62, §§ 2-432, 2-433; O.7738; C62, § 25A-15; O.8920; C75, § 2-323; O.9337; C79, C91, § 2-323; O.11,784)

Sec. 62-6. Failure to honor commitment.

The human rights commission may investigate a conciliated complaint filed pursuant to this article at a later date to ensure that the respondent is complying with the terms of the conciliation. In any case where the respondent has made commitments in the conciliation and the commission finds that the commitments have not been kept, it may open all of its files, previous complaints and proceedings involving the respondent for public inspection and proceed with such further steps it finds appropriate including initiation of a proceeding in Polk County district court to effectuate the purposes of this chapter. (C62, § 2-435; O.7079, 7738; C62, § 25A-16; O.8920; C75, § 2-324; O.9337; C79, C91, § 2-324)

Sec. 62-7. Confidentiality.

- (a) If a complaint filed pursuant to this chapter is successfully conciliated or it is found that no discrimination was practiced, the names of the parties to the complaint and all proceedings with regard to such parties and the place of alleged discrimination shall be and remain confidential unless otherwise agreed by mutual consent of the parties; provided, however, that the terms of the conciliation may be published. This section shall not prohibit disclosure made in connection with the conduct of an investigation or any disclosure to the Iowa civil rights commission or a similar government agency conducting an investigation involving illegal discriminatory practices.
- (b) The members of the human rights commission and its staff shall not disclose the filing of a complaint, the information gathered during the investigation, or the endeavor to eliminate such illegal discriminatory practice by conciliation or persuasion except when

such disclosure is made in connection with the conduct of the investigation, including enforcement of a subpoena. The identity of individuals interviewed shall remain confidential except as the disclosure of their identity becomes necessary at the time of public hearing.

- (c) If a complaint is not successfully conciliated and a determination has been made to proceed to public hearing, the executive director shall promptly forward to the respondent the names and addresses of those persons who shall be called as witnesses at such public hearing.

(C62, §§ 2-432, 2-433; O.7079; C62, §§ 2-432, 2-433; O.7738; C62, § 25A-15; O.8920; C62, § 25A-17; C75, § 2-325; O.9337, 9539; C79, § 2-325; O.10,656; C85, § 2-325; O.11,468; C91, § 2-325; C00, § 62-7; O.13,922)

Sec. 62-8. Public hearing.

- (a) In the event of failure to eliminate illegal discriminatory practice by means of conciliation and persuasion, the human rights commission may hold a public hearing if the executive director determines that the circumstances warrant, in accordance with the following:
 - (1) Hearings shall be conducted by the full commission or the commission may direct the chair of the commission to designate three members of the commission or a disinterested third party to act as a hearing officer to conduct the hearing.
 - (2) Where the chairperson has designated a panel of commissioners to serve as hearing officers at a public hearing, the chair shall designate one member of the panel to act as presiding commissioner. All rulings and determinations shall be made on majority rule.
 - (3) The hearing shall be held not less than ten days after the respondent has been served with a statement of the charges made in the complaint and a notice of the time, place, and nature of the hearing.
 - (4) Such written notice shall be delivered by personal service as in civil actions or by certified mail, return receipt requested.
 - (5) If a party fails to appear in a public hearing after proper service of a notice, the person conducting the hearing may proceed and make a decision in the absence of the party.
 - (6) The burden of proof shall be on the commission.
- (b) The respondent shall have the right to file an answer to the statement of charges, to appear at the hearing in person, to be represented by an attorney at the respondent's own expense or by any other person, to examine and cross examine witnesses, and to present evidence.
- (c) Oral proceedings shall be open to the public and shall be recorded either by mechanized means or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party at his or her or its expense. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained by the commission for at least five years from the date of decision. Notice of public hearing shall be disseminated among local news media at least five days prior to the date of the hearing.

- (d) A complaint or any part thereof may be amended by the complainant or by the commission at any time before the final order is entered in the case. However, if an amendment requires proof of additional facts, the commission shall, if circumstances reasonably warrant such action, allow the respondent sufficient time to gather evidence to rebut such facts, which shall include the granting of a continuance or any other relief that may be reasonably appropriate.
- (e) After a review of the transcript, the evidence, and the briefs, the hearing commissioners or the hearing officer shall issue in writing the findings of fact, conclusions of law and the order, then recommend such to the commission for its adoption, modification or rejection.
- (f) When the commission presides at the reception of evidence in a public hearing, the decision of the commission is a final decision. When the commission did not preside at the reception of the evidence in a public hearing, the hearing commissioners or the hearing officer shall make a proposed decision.
- (g) Upon receipt of the hearing commissioner's or hearing officer's proposed decision, the commission shall forward a copy of the proposed decision to each of the parties. The commission shall include a notice of the date, time and place of the meeting at which the commission shall review the proposed decision. The notice shall also advise the parties of their appeal rights. An appeal shall be filed within 20 days after the receipt of notice of the commission's final decision.
- (h) The commission may adopt, modify or reject the hearing commissioner's or hearing officer's proposed decision or it may remand the case to the hearing commissioners or hearing officer for the taking of such additional evidence and the making of such further recommended findings of fact, conclusions of law, decision and order as the commission deems necessary. Upon completing its review of the hearing commissioner's or hearing officer's proposed decision, the commission shall cause the appropriate order to be issued.
- (i) The commission shall, within 60 days of the date it receives the proposed decision, review the proposed decision at the commission meeting. The commission shall consider all timely filed appeals, exceptions and briefs at the time it reviews the proposed decision.
- (j) If the commission fails to issue an order within 60 days from the date the hearing commissioners or the hearing officer issues recommendations, the proposed findings shall become final.
- (k) If the commission concurs with the hearing commissioners or the hearing officer, it shall issue an order requiring the respondent to cease and desist from the illegal discriminatory practice and to take such affirmative action as the hearing officer or hearing commissioners found appropriate to remedy the illegal discriminatory practice. Such affirmative action may include but is not limited to the following:
 - (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 or admission 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 a 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 actual damages suffered by the complainant, court costs and reasonable attorney's fees.
 - (1) If the commission disagrees with any portion of the order so proposed, it may hold a hearing which shall be limited solely to its points of disagreement, at which hearing the complainant, respondent and the commission staff shall be given an opportunity to be heard and after which it may accept, amend, or reject the questioned action and shall issue its order pursuant to its conclusion at such hearing.
- (C62, § 2-434; O.7079, 7738; C62, § 25A-17; O.8920; C62, § 25A-18; C75, § 2-326; O.9337; C79, § 2-326; O.10,244, 10,256; C91, § 2-326; O.11,784; C00, § 62-8; O.13,922)

Sec. 62-9. Judicial review.

- (a) Any complainant or respondent claiming to be aggrieved by a final order of the human rights commission or by the commission's refusal to issue an order, may obtain judicial review thereof, and the commission may obtain an order of court for the enforcement of commission orders, in a proceeding as provided in this section.
- (b) Such proceeding shall be brought in the Polk County district court according to the Iowa rules of civil procedure and this chapter.
- (c) Such proceeding shall be initiated by the filing of a petition in the court and the service of a copy thereof upon the city clerk, a representative of the commission and upon the respondent or complainant. Thereupon the commission shall file with the court a transcript of the record of the hearing before it. The court shall have jurisdiction of the proceeding according to this chapter.
- (d) An objection that has not been urged before the commission shall not be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.
- (e) Any party may move the court to remit the case to the commission in the interest of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon, provided such party shall show reasonable grounds for the failure to adduce such evidence before the commission.
- (f) The court may affirm the commission action or remand to the commission for further proceedings. The court shall reverse, modify, or grant any other appropriate relief from the commission action, equitable or legal and including declaratory relief, if substantial rights of the complainant have been prejudiced because the commission action is:
 - (1) In violation of constitutional or statutory provisions;
 - (2) In excess of the authority of the commission;
 - (3) In violation of commission rule;
 - (4) Pursuant to unlawful procedure;

- (5) Affected by other error of law;
- (6) In a contested case, unsupported by substantial evidence in the record made before the commission when that record is viewed as a whole; or
- (7) Unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.
- (g) An aggrieved or adversely affected party to the judicial review proceeding may obtain a review of any final judgment of the district court under this chapter by appeal to the supreme court. The appeal shall be taken as in other civil cases, although the appeal may be taken regardless of the amount involved.
- (h) The commission's copy of a transcript of testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the commission's orders.
- (i) The commission may appear in court by its own attorney.
- (j) Unless otherwise directed by the commission or court, commencement of review proceedings under this section shall operate as a stay of any order of the commission.
- (k) Petitions filed under this section shall be heard expeditiously and determined upon the transcript filed without requirement for printing.
- (l) If a proceeding for judicial review is not instituted by a complainant or respondent within 30 days from the service of an order of the commission under section 62-8 of this article, the commission may obtain an order of the court for the enforcement of such order upon showing that the 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.

(C62, § 25A-19; O.8920; C75, § 2-327; O.9337; C79, § 2-327; O.9745; C91, § 2-327)

State law reference(s)--Similar provisions, I.C. § 216.17.

Sec. 62-10. Temporary injunction.

If, at any time after a complaint is filed pursuant to this chapter, it shall appear to the human rights commission that there is reason to believe that the party charged has violated this chapter and there is reason to believe that the person charged is about to do acts which would make compliance with an order of the commission to alleviate the grievance difficult, the commission may request the attorney for the commission to seek a temporary injunction or other order granting preliminary or temporary relief, restraining the respondent from violation of this chapter. (C62, § 2-434; O.7079, 7738; C62, § 25A-17; O.8920, C62, § 25A-20; C75, C79, C91, § 2-328; O.11,784; C00, § 62-10; O.13,922)

Sec. 62-11. Administration of chapter.

The human rights commission shall be the administrative agency of this chapter and shall promulgate rules and procedures to govern, expedite and effectuate this chapter and its own actions under this chapter. A copy of such rules shall be filed with the city clerk after adoption by the commission. (C62, § 25A-18; O.7738, 8920; C62, § 25A-21; C75, § 2-329; O.9337; C79, C91, § 2-329)

Cross reference(s)--Administration, ch. 2.

Sec. 62-12. Attorney.

The city attorney or a member of his or her staff shall be the attorney for the human rights commission, except the commission may hire or retain an attorney, other than the city attorney or

a member of his or her staff, on a per-diem basis to represent it when, in the opinion of the commission, there is a conflict of interest between the commission and another city department, commission or board because of representation of such department, commission or board by the city legal department. In assigning a member of his or her staff, the city attorney shall make such assignment the first priority of such attorney's duties, up to and including the assignment of such attorney on a full-time basis to the commission whenever the commission deems such assignment necessary. The city attorney shall cooperate with the commission to ensure it receives the legal representation and counsel commensurate with its mission. (C62, § 25A-19; O.7738, 8920; C62, § 25A-22; C75, C79, C85, § 2-330; O.11,468; C91, § 2-330)

Sec. 62-13. Executive director.

- (a) The executive director of the human rights commission shall serve as the principal administrative officer of the commission. The executive director shall be a person skilled in human relations, knowledgeable by training and experience in civil rights law and procedure with sufficient management and communication skills to effectuate the purposes of this chapter and work effectively within the established parameters of city government. The executive director shall provide a written self-evaluation to the commission at least ten days before the commission's annual meeting, at which meeting the commission shall evaluate the executive director's performance for the year.
 - (b) In addition to such evaluation, the commission may from time to time, as it deems it necessary or advisable, confer with the executive director regarding the relative strengths and weaknesses of job performance and the steps needed to maximize or correct the job performance. If such steps are not promptly taken with a measurable improvement in the performance of duty, the commission may initiate appropriate action including removal.
- (C62, § 25A-20; O.7738, 8920; C62, § 25A-23; C75, C79, C85, § 2-331; O.11,468; C91, § 2-331; C00, § 62-13; O.13,922)

Sec. 62-14. Construction of chapter.

This chapter shall be construed broadly to effectuate its purpose. (C62, § 25A-24; O.8920; C75, C91, § 2-332)

Sec. 62-15. Effect of remedies.

The remedies contained in this chapter shall be exclusive, and the provisions of section 1-15 of this Code shall not apply. (C54, § 2-421; O.5775; C62, § 2-421; O.7738; C62, §§ 25A-4, 25A-5; O.8291, 8920; C75, § 2-315; O.9337; C79, § 2-315; O.10,244; C91, § 2-315(c); C00, § 62-15; O.13,922)

Sec. 62-16. Sixty-day administrative release.

- 1. A person claiming to be aggrieved by an illegal discriminatory practice must initially seek administrative relief by filing a complaint with the commission in accordance with section 62.2. After the proper filing of a complaint with the commission, a complainant may subsequently commence an action for relief in the district court if all of the following conditions have been satisfied:
 - a. The complainant has timely filed the complaint with the commission as provided in section 62.2(b); and

- b. The complaint has been on file with the commission for at least sixty days and the commission has issued a release to the complainant pursuant to subsection 2 of this section.
- 2. Upon a request by the complainant, and after the expiration of sixty 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, a conciliation agreement has been executed under section 62-5, the commission has served notice of hearing upon the respondent pursuant to section 62-8, or the complaint is closed as an administrative closure and two years have elapsed since the issuance date of the closure.
- 3. An action authorized under this section is barred unless commenced within ninety days after issuance by the commission of a release under subsection 2 of this section. If a complainant obtains a release from the commission under subsection 2 of this section, the commission is barred from further action on the complaint.
- 4. Venue for an action under this section shall be in the county in which the respondent resides or has its principal place of business, or in the county in which the alleged unfair or discriminatory practice occurred.
- 5. The district court may grant any relief in an action under this section which is authorized by this chapter to be issued by the commission. The district court may also award the respondent reasonable attorney's fees and the court costs if the court finds that the complainant's action was frivolous. (C00, § 62-16; O.14,520)

Secs. 62-17--62-40. Reserved.

ARTICLE II. COMMISSION*

 *Cross reference(s)--Boards, commissions, committees and agencies, § 2-1046 et seq.

Sec. 62-41. Established; appointment; composition; terms.

- (a) There is established in the city government a commission to be known as the Des Moines Human Rights Commission.
- (b) This commission shall consist of seven members broadly representative of the community.
- (c) Commission members shall be appointed by the city council. All appointments shall be for a term of three years until the first Monday in April of the year in which the term ends. No member shall be appointed to serve more than two consecutive terms.
- (d) The commission shall elect a chair, vice-chair, and secretary and such other officers as it deems appropriate from its members on an annual basis.
- (e) Officers shall serve in their respective offices for a term of one year or until their successors shall be appointed and qualified.
- (f) Any four members shall constitute a quorum.
- (g) All commission members shall serve without compensation.
- (h) If any member dies or resigns, a successor shall be appointed to serve for the unexpired period of the member's term.

- (i) The commission may name subcommittees which in its judgment will aid in effectuating the purposes of this chapter and may empower it to study the problems of prejudice, intolerance, bigotry, and discrimination in any fields of human relationships within the purview of this chapter.
- (j) When appropriate, the Commission shall nominate three candidates to fill a vacancy in the executive director position. In forwarding the nominations for executive director to the mayor and the city council, the commission may indicate the order of its preference for appointment. The executive director shall not be a commission member.
- (k) The appointment of the executive director shall be made by the mayor and confirmed by the city council. The executive director shall be compensated in such amount as the city council shall fix. The executive director shall serve at the pleasure of the commission.
- (l) The removal of the executive director must be approved by a majority vote of all commission members and of all city council members. Removal may be initiated by either body.
- (m) The commission may select additional personnel deemed necessary to carry out the purposes of this chapter.
- (n) The expenses of activities shall be paid out of the funds appropriated for the purpose. The commission shall in addition be authorized to receive gifts and grants from any other sources to carry on its work.

(C54, § 2-419, O.5775; C62, § 2-419; O.7738; C62, § 25A-2; O.7745, 8920; C75, § 2-313; O.9337; C79, § 2-313; O.10,265; C85, § 2-313; O.11,468; C91, § 2-313; O.11,788; C00, § 62-41; O.13,909, 13,922, 14,006)

Sec. 62-42. Powers and duties of commission and director.

- (a) The human rights commission shall have the power and duty to:
 - (1) Initiate, receive, hear, and investigate complaints of discrimination by or against any person or group and to make a report to the city council of any violations of this chapter and of any illegal discrimination found to exist and issue orders to remedy such discrimination.
 - (2) Seek to conciliate complaints.
 - (3) Direct the attorney for the commission to petition the district court to seek a subpoena for books, papers, records and any other material evidence necessary to the investigation and hearings of any complaint filed pursuant to this chapter.
 - (4) Hold hearings upon any complaint filed against any respondent pursuant to section 62-2 of this chapter; demand witnesses and compel their attendance, and compel respondents to produce for examination any books, papers, and materials relating to any matters material to the subject of the complaint; and administer oaths and take the testimony of any person under oath. Such hearings may be held by the commission itself or by duly appointed hearing officers. There shall be issued findings of fact, recommendations and orders. If a witness either fails or refuses to obey a demand 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.
 - (5) From time to time, but not less than once a year, render to the city council a written report of its activities and recommendations; hold regular meetings as otherwise required by this Code, including an annual meeting in September of each year at which

officers shall be elected, the executive director's performance shall be evaluated, and the commission's annual report to the city council, if not already filed, shall be approved and forwarded to the city clerk for receipt and filing by the city council; hold a joint meeting with the city council at least once each year.

- (6) Formulate and carry out a comprehensive educational program designed to prevent and eliminate discrimination because of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status, including the provision of training and educational services to businesses, professional groups, and educational agencies requesting workshops, seminars, or speakers to address specific issues and concerns within the purview of this chapter, as well as maintaining as a part of the commission's formal educational program a series of public forums addressing upon a rotating basis the various matters within this chapter about which there is the need to increase public awareness and response. The commission shall prepare and distribute a brochure explaining its mission, purpose, and procedures for dissemination within the city and shall publish and distribute a quarterly newsletter of its activities and concerns. The commission's educational and training efforts shall be undertaken in cooperation with any private, quasi-public, or public organization, agency, or association offering its support to such endeavor by providing staff to be trained to assist in the workshops and seminars sponsored by the commission, by providing clerical support services or professional expertise in the preparation and release of the brochure and newsletter, or providing financial support for the commission's educational and training program.
- (7) Adopt such rules and regulations as may be necessary to govern, expedite, and effectuate this chapter and keep a record of its activities and minutes of its meetings.
- (8) Investigate and study housing patterns and group relationships within the city and the extent of discrimination, prejudice and segregation in public accommodations, employment, apprenticeship programs, on-the-job training programs, housing and public, private, and vocational schools because of age, sex, sexual orientation, race, religion, creed, color, national origin, ancestry, disability or familial status and the effect of such discrimination, and segregation in public accommodations, employment, apprenticeship programs, on-the-job training programs, housing patterns and public, private and vocational schools; and advise and cooperate with the mayor, the board and officials with relation to any such problems. The commission shall from time to time make recommendations to the mayor, the city council, the city manager, agencies, and officials, for the betterment of housing patterns and intergroup relationships within the community.
- (9) Devise and recommend to the mayor and city council ways and means of discouraging and combating prejudice, intolerance, and bigotry in all groups and in their relations with one another.
- (10) Discover all practices and policies calculated to create conflicts and tensions and recommend ways and means for their elimination.
- (11) Report and recommend means of eliminating any unfair or unjust discrimination against any person or group which would be deemed detrimental to the best interests of the community.

- (12) Enlist the cooperation of all racial, religious, educational, community, civic, business, fraternal, and benevolent associations and all other groups, associations and societies and all constructive community forces and talents that might be helpful to it in discharging its duties.
- (13) Cooperate with federal, state, and city agencies, citizens, citizen organizations, the board of education, and parochial and private schools in formulating and developing courses of education to accomplish the objectives of this chapter.
- (14) Initiate and conduct voluntary surveys; assemble pertinent data, confer with groups and hold hearings; and expedite the work of the commission by making investigations and surveys through subcommittees.
- (15) Endeavor by persuasion and education to induce public and private owners, lay and professional organizations of the housing industry, contractors, and lending institutions to institute nondiscriminatory practices in the procurement and financing of housing accommodations, according to one's ability to pay, without regard to age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status.
- (16) Assist in creating advisory agencies which will aid in effectuating the purposes of this chapter, which may be authorized to study the problem of discrimination in all or specific fields or instances of discrimination because of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status 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 recommendations to the commission for the development of rules and procedures, and for the programs of formal and informal education, which the commission may recommend to the appropriate local agency. Advisory agencies 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 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 this city.
- (17) Act as a deferral agency of the Iowa civil rights commission, the equal employment opportunity commission and of other regulatory governmental agencies deemed appropriate; receive such complaints as the state commission may refer; investigate and process them in the same manner as a complaint originally filed with the city commission; and report its investigative results, findings, conclusions, recommendations and orders to the state commission or other agency.
- (18) Apply for and maintain referral agency status with the Iowa civil rights commission as set out in I.C. § 216.1 et seq., and the administrative rules promulgated pursuant to such chapter in the Iowa Administrative Code; correct any deficiencies which prevent the referral status being granted, including seeking any necessary city council action; and negotiate and present for city council approval and consent a referral contract with the Iowa civil rights commission, including a provision that charges involving city staff as complainants or respondents, or otherwise aggrieved parties or alleged perpetrators, may be

referred to and may be accepted by the Iowa civil rights commission for investigation and determination.

(19) Any of the powers and duties described above may be delegated to the executive director.

(b) The executive director shall exercise the following powers and duties:

(1) Perform such duties as the Commission may direct or delegate.

(2) Assist the commission in exercising its powers and performing its duties as set out in this chapter.

(3) Supervise and manage the staff of the commission.

(4) Report to the commission at each monthly meeting the activities and performance of duties of the executive director and commission staff. Copies of this report shall be submitted to the mayor and city manager.

(5) Develop a plan and procedure to prevent any case being on file with the commission for more than 120 days without having been preliminarily screened for probable cause.

(6) Design and implement an orientation and ongoing training program for all staff and commissioners with emphasis on the commission's mandate, mission, and importance of each commissioner's participation and attendance.

(7) Perform any and all responsibilities set out in this chapter to be performed by the executive director.

(8) Perform any and all other tasks and duties which the commission deems necessary or appropriate to effectuate the purposes of this chapter.

(9) Prepare and submit for commission comment and approval the annual comprehensive report of the commission's activities and recommendations to the city council pursuant to this chapter.

(10) Act as the legislative liaison for the commission for all matters within the purview of this chapter.

(11) Actively seek grants and other types of funding consistent with the commission's mission for presentation to and consideration of the commission.

(C54, § 2-420; O.5775; C62, § 2-420; O.7738; C62, § 25A-3; O.8291, 8920; C75, § 2-314; O.9337; C79, § 2-314; O.10,244, 10,256; C85, § 2-314; O.11,468; C91, § 2-314; O.11,784, 12,072; C00, § 62-42; O.13,922, 13,965)

Secs. 62-43--62-70. Reserved.

ARTICLE III. DISCRIMINATORY EMPLOYMENT PRACTICES*

*Cross reference(s)--Businesses, ch. 30.

Sec. 62-71. Enumerated.

It shall be an illegal discriminatory employment practice for:

(1) An employer to fail or to refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to such individual's compensation, terms, conditions or privileges of employment, or to limit, segregate, or classify employees or applicants for employment in any way which

would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect such individual's status as an employee, because of such individual's age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability. Sexual harassment is a prohibited discriminatory practice.

- (2) A labor organization or the employees, agents, or members thereof to refuse to admit to membership any applicant; to expel any member; to limit, segregate, or classify its membership or applicants for membership; or to classify or fail or refuse to refer for employment any individual in any way which would adversely affect such individual's status as an employee or as an applicant for employment or to otherwise discriminate against any applicant for membership or any member in the privileges, rights or the benefits of such membership because of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability or to discriminate against any employer or any person employed by an employer because of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability.
- (3) An employer, employment agency, labor organization or the employees, agents or members thereof to directly or indirectly print or circulate or cause to be printed or circulated any advertisement, statement, or publication or to use any form of application for employment or membership or to make any inquiry in connection with prospective employment or membership which expresses, directly or indirectly, any limitation, specification, or discrimination as to age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability.
- (4) Any employer, employment agency, labor organization or employees, agents or members thereof to discriminate in hiring, classifying, procuring, recruiting, referring, or placing persons for employment because of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability.
- (5) An employer, labor organization, employment agency, or employees, agents or members thereof to discharge, expel, harass, or otherwise discriminate against any person because such person has opposed any practice forbidden under this chapter or has filed a complaint, testified or assisted in any proceeding under this chapter.
- (6) Any person to aid, abet, incite, compel or coerce the doing of any of the practices declared illegal or discriminatory by this chapter.

(C54, § 2-421; O.5775; C62, § 2-421; O.7738; C62, §§ 25A-4, 25A-5; O.8291, 8920; C75, § 2-315; O.9337; C79, § 2-315; O.10,244; C91, § 2-315(a); C00, § 62-71; 13,965)

Sec. 62-72. Exemptions.

Nothing in this article shall be construed to apply to the following:

- (1) The employment of individuals to render personal service to the person or the employer or members of the employer's family.
- (2) Any employer who regularly employs fewer than four individuals. For purposes of this chapter, individuals who are members of the employer's family shall not be counted as employees.
- (3) 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.

- (4) Any bona fide religious institution with respect to any qualifications for employment based on religion or sexual orientation, when such qualifications are related to a bona fide religious purpose.

(C54, § 2-421; O.5775; C62, § 2-421; O.7738; C62, §§ 25A-4, 25A-5; O.8291, 8920; C75, § 2-315; O.9337; C79, § 2-315; O.10,244; C91, § 2-315(b); C00, § 62-72; O.13,965)

Secs. 62-73--62-100. Reserved.

ARTICLE IV. DISCRIMINATORY HOUSING PRACTICES*

*Cross reference(s)--Housing code, § 26-436 et seq.; public housing, ch. 90.

Sec. 62-101. Enumeration of illegal practices.

- (a) It shall be an illegal discriminatory housing practice for any person, owner, or person acting for an owner, of rights to dwelling with or without compensation, including but not limited to persons licensed as real estate brokers or salespersons, attorneys, auctioneers, appraisers, agents or representatives by power of attorney or appointment, or any person acting under court order, deed of trust, or will to:
- (1) Refuse to sell, lease or rent after making of a bona fide offer; refuse to show or represent that a dwelling is unavailable; or refuse to negotiate for the sale, lease or rental of any dwelling or refuse to sublease or assign or otherwise make unavailable or deny a dwelling to any person because of race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status.
 - (2) Directly or indirectly advertise or in any other manner indicate or publicize that the purchase, rental, lease, assignment, or sublease of any dwelling or any part, portion or interest therein, by persons of any particular race, color, sex, sexual orientation, creed, religion or national origin, ancestry, disability, or familial status, is unwelcome, objectionable, not acceptable, or not solicited.
 - (3) Include in the terms, conditions or privileges of any sale, lease, sublease, rental, assignment or other transfer of any dwelling, any clause, condition or restriction discriminating against any person in the use or occupancy of the dwelling because of race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status.
 - (4) Discriminate in the furnishing of any facilities or services for any dwelling because of race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status.
 - (5) Make, utter, print, publish or circulate or cause to be made, printed, uttered, published or circulated any notice, statement or advertisement; announce a policy; use any form of application with respect to the sale, purchase, lease, rental or financing of dwelling; or make any record or inquiry in connection with the prospective purchase, rental or lease of a dwelling which either records the race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status of applicants or indicates directly or indirectly any preference, limitation, specification or discrimination on the basis of race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status

or an intention to make any such preference, limitation, specification or discrimination.

- (6) Discriminate against any other person because the latter has opposed any practice forbidden under this chapter or has filed a complaint, testified, or assisted in a proceeding under this chapter.
 - (7) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter.
 - (8) Aid, incite, compel, coerce, or participate in the doing of any act declared to be a discriminatory housing practice under this section; attempt, directly or indirectly, to commit any act declared by this section to be a discriminatory practice; or attempt in any fashion to coerce, intimidate, compel, threaten, interfere, or in any other fashion force any person not to cooperate or participate in any hearing or other proceeding conducted by the human rights commission or its staff.
 - (9) For profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, sex, sexual orientation, color, religion, ancestry, national origin, disability or familial status.
 - (10) Steer or channel a prospective buyer into or away from an area because of race, sex, sexual orientation, religion, national origin, ancestry, color, disability, or familial status, by action by a real estate broker or salesperson which is intended to influence the choice of a prospective dwelling buyer on the basis of racial, religious, national origin, sex, sexual orientation, color, disability, ancestry or familial status.
 - (11) Deny another person access to or membership or participation in a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings or discriminate against a person in terms or conditions of access, membership, or participation in such organization because of race, color, creed, sex, sexual orientation, religion, national origin, disability, or familial status.
- (b) As used in this subsection, the term "residential real-estate-related transaction" means any of the following: (i) the making or purchasing of loans, accepting mortgages or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling or secured by residential real estate; (ii) the selling, brokering, or appraising of residential real property. It shall be an illegal discriminatory housing practice for any person, owner or person acting for an owner, of rights to dwelling, with or without compensation, including but not limited to persons licensed as real estate brokers, salespersons or entities whose business includes engaging in residential real-estate-related transactions to discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction, because of race, color, religion, sex, sexual orientation, ancestry, disability, familial status, or national origin to discriminate in rates, terms, conditions or provisions of any such financial assistance or in the extension of services in connection therewith because of race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or familial status of the applicant for such loan or funds or of the would-be-purchaser or lessee or prospective

occupant of dwelling or of the racial makeup of the neighborhood in which the property is located. Nothing in this subsection prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, creed, national origin, ancestry, sex, sexual orientation, disability or familial status.

(C62, §§ 2-428, 2-436; O.7079, 7362, 7738; C62, §§ 25A-6, 25A-7; O.8291, 8920; C75, § 2-316; O.9337; C79, § 2-316; O.10,244; C85, § 2-316; O.10,802; C91, § 2-316; O.11,784, 12,072; C00, § 62-101; O.13,922, 13,965)

Sec. 62-102. Illegal discriminatory practices based on disability.

- (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:
 - (1) That person.
 - (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 person.
- (c) For the purpose of this section only, discrimination includes any of the following circumstances:
 - (1) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford the person full enjoyment of the premises. For a rental, a landlord may, where reasonable to do so, condition permission for a modification on the renter's agreement to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
 - (2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling.
 - (3) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 16, 1992, a failure to design and construct those dwellings in a manner that meets the following requirements:
 - a. The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons.
 - b. All doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs.
 - c. All premises within the dwellings contain the following features of adaptive design:
 - 1. An accessible route into and through the dwelling.

2. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.
 3. Reinforcements in bathroom walls to allow later installation of grab bars.
 4. Usable kitchens and bathrooms so that a person in a wheelchair can maneuver about the space.
- (d) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as ANSI A 117.1, satisfies the requirements of subsection (c)(3)c of this section.
- (e) Nothing in subsections (a), (b) and (c) of this section requires that a dwelling be made available to a person whose tenancy would constitute a direct threat to the health or safety of other persons or whose tenancy would result in substantial physical damage to the property of others.
- (C91, § 2-316.01; O.11,784, 12,072)

Sec. 62-103. Exemptions.

- (a) Nothing in sections 62-101 and 62-102 of this article shall be construed to apply to the following:
- (1) The rental or leasing of a dwelling in a building which contains dwellings for not more than two families living independently of each other, if the owner resides in one of such dwellings.
 - (2) Any bona fide religious institution with respect to any qualifications it may impose based on religion or sexual orientation, when such qualifications are related to a bona fide religious purpose, unless the religious institution owns or operates property for a commercial purpose or membership in the religion is restricted on account of race, color or national origin.
 - (3) The rental or leasing of less than four rooms within a single dwelling by the occupant or owner of such dwelling, if the occupant or owner resides in the dwelling.
 - (4) The rental or leasing of a dwelling within which residents of both sexes must share a common bathroom facility on the same floor of the building. This exemption does not apply to race, color, creed, religion, sexual orientation, national origin, ancestry, disability or familial status basis.
 - (5) The rental or leasing of a dwelling in a building which contains dwellings for not more than four families living independently of each other, if the owner resides in one of the dwellings for which the owner qualifies for the homestead tax credit under I.C. § 425.1.
- (b) Nothing in sections 62-101 and 62-102 of this article regarding familial status shall apply with respect to housing for older persons. As used in this subsection, the term "housing for older persons" means housing:
- (1) Provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined in the state or federal program, that the human rights commission determines to be consistent with determinations made by the Secretary of Housing and Urban Development;
 - (2) Intended for and solely occupied by persons 62 years of age or older; or
 - (3) For 80-percent occupancy by at least one person 55 years of age or older per unit, and providing significant facilities and services specifically designed to meet the

physical or social needs of the persons, and the housing facility must publish and adhere to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

- (c) None of the exemptions stated in subsections (a) and (b) of this section shall apply to advertising.

(C91, § 2-316.02; O.11,784, 12,072; C00, § 62-103; O.13,965)

Sec. 62-104. Threat of force or intimidation; penalty.

- (a) A person commits a public offense if the person, whether or not acting under color of law, by force or threat of force, intentionally intimidates or interferes with or attempts to interfere with a person under any of the following circumstances:

- (1) Because of the person's race, color, creed, sex, sexual orientation, religion, national origin, disability, or familial status, and because the person is or has been selling, purchasing, renting, occupying, or financing, contracting for, or negotiating for the sale, purchase, rental or occupation of any dwelling, or applying for or participating in a service, organization, or facility relating to the business of selling or renting dwellings.

- (2) Because the person is or has been doing any of the following:

- a. Participating, without discrimination because of race, color, creed, sex, sexual orientation, religion, national origin, disability, or familial status, in an activity service, organization, or facility described in subsection (a)(1) of this section.
- b. Affording another person the opportunity or protection to so participate.
- c. Lawfully aiding or encouraging other persons to participate, without discrimination because of race, color, sex, sexual orientation, religion, national origin, disability, or familial status, in an activity, service, organization, or facility described in subsection (a)(1) of this section.

- (b) Any person who fails to perform an act required by this section or who commits an act prohibited by this section shall be guilty of a misdemeanor punishable by fine or imprisonment as provided by section 1-15 of this Code.

(C91, § 2-316.03; O.11,784; C00, § 62-104; O.13,965)

Sec. 62-105. Effect on other law.

This article does not affect a reasonable local or state restriction regarding maximum number of occupants permitted to occupy a dwelling. (C91, § 2-316.04; O.11,784)

Sec. 62-106. Civil action.

- (a) A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed pursuant to this chapter may elect to have the charges asserted in the complaint decided in a civil action as provided by section 62-107 of this article in accordance with the following:

- (1) The election must be made not later than 20 days after the date of receipt by the electing person of service under subsection 62-4(h)(2) of this chapter, or for the human rights commission not later than 20 days after the date of such service.

- (2) The person making the election shall give notice to the commission and to all other complainants and respondents to whom the election relates.

- (3) The election to have the charges of a complaint decided in a civil action as provided in this subsection is only available if it is alleged that there has been a violation of section 62-101 or 62-102 of this article.
- (b) An aggrieved person may, as provided I.C. § 216.16A, file a civil action in district court not later than two years after the occurrence of the termination of an alleged discriminatory housing or real estate practice or the breach of a mediation agreement entered into in section 62-4 of this chapter, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing or real estate practice or breach in accordance with the following:
 - (1) The two-year period does not include any time during which a public hearing under sections 62-4 and 62-8 of this chapter is pending with respect to a complaint or charge based on the discriminatory housing or real estate practice. This subsection does not apply to actions arising from a breach of a mediation agreement.
 - (2) An aggrieved person may file an action under this subsection whether or not a discriminatory housing or real estate complaint has been filed under section 62-2 of this chapter and without regard to the status of any discriminatory housing or real estate complaint filed under that section.
 - (3) However, an aggrieved person shall not file an action under this subsection with respect to an alleged discriminatory housing or real estate practice that forms the basis of a charge issued by the commission if the commission has begun a hearing on the record under sections 62-4 and 62-8 of this chapter with respect to the charge.
 - (4) If the commission has obtained a mediation agreement with the consent of an aggrieved person, the aggrieved person shall not file an action under this subsection with respect to the alleged discriminatory practice that forms the basis for the complaint except to enforce the terms of the agreement.

(C91, § 2-322.02; O.12,072)

State law reference(s)--Similar provisions, I.C. § 216.16A.

Sec. 62-107. Additional civil proceedings.

- (a) Additional civil proceedings are available in the area of discriminatory housing practices as follows:
 - (1) If timely election is made under section 62-106 of this article, the parties are entitled to all rights, protections and remedies provided by I.C. § 216.17A.
 - (2) An aggrieved person may intervene in the action.
 - (3) If the district court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the district court may grant any relief that a court may grant in a civil action under I.C. § 216.17A.
 - (4) If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the district court, as provided by I.C. § 216.17A, shall not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the district court.
- (b) An order of the human rights commission under sections 62-4 and 62-8 of this chapter and a commission order that has been substantially affirmed by judicial review do not affect a contract, sale, encumbrance, or lease that was consummated before the commission issued the order and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the charge issued under this section.

- (c) If the human rights commission issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the commission, not later than 30 days after the date of issuance of the order, shall do all of the following:
 - (1) Send copies of the findings and the order to the governmental agency.
 - (2) Recommend to the governmental agency appropriate disciplinary action.
- (d) If the commission issues an order against a respondent against whom another order was issued within the preceding five years under section 62-4 or 62-8 of this chapter, the commission shall send a copy of each order issued under that section to the state attorney general.
- (e) On application by a person alleging a discriminatory housing practice or by a person against whom a discriminatory practice is alleged, the district court may, as provided by I.C. § 216.17A, appoint an attorney for the person.
- (f) In an action under this section, if the district court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the district court may, as provided by I.C. § 216.17A, award or issue to the plaintiff one or more of the following:
 - (1) Actual and punitive damages.
 - (2) Reasonable attorney's fees.
 - (3) Court costs.
 - (4) Subject to subsection (g) of this section, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.
- (g) Relief granted under this section does not affect a contract, sale, encumbrance, or lease that was consummated before the granting of the relief and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the filing of a complaint under section 62-2 of this chapter or a civil action under this section.
- (h) On the request of the human rights commission, the attorney may intervene in an action under this section if the commission certifies that the case is of general public importance. The attorney may obtain the same relief available to the attorney under subsection (i) of this section.
- (i) On the request of the human rights commission, the commission's attorney shall file a civil action in district court for appropriate relief if the commission has reasonable cause to believe that any of the following applies:
 - (1) A person is engaged in a pattern or practice of resistance to the full enjoyment of any housing right granted by sections 62-161 or 62-102 of this chapter.
 - (2) A person has been denied any housing right granted by this chapter and that denial raises an issue of general public importance.
- (j) In an action under this section, the district court may, as provided by I.C. § 216.17A, do any of the following:
 - (1) Order preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of housing rights as necessary to ensure the full enjoyment of the housing rights granted by this chapter.
 - (2) Order another appropriate relief, including the awarding of monetary damages, reasonable attorney's fees, and court costs.

- (3) To vindicate the public interest, assess a civil penalty against the respondent in an amount not to exceed those established by I.C. § 216.17A as follows:
 - a. Fifty thousand dollars for a first violation.
 - b. One hundred thousand dollars for a second or subsequent violation.
 - (k) A person may intervene in an action under this section if the person is any of the following:
 - (1) An aggrieved person to the discriminatory housing or real estate practice.
 - (2) A party to a mediation agreement concerning the discriminatory housing or real estate practice.
 - (l) The attorney, on behalf of the commission or other party at whose request a subpoena is issued, may enforce the subpoena in appropriate proceedings in district court.
 - (m) A court in a civil action brought under this section or the commission in an administrative hearing under section 62-4 and/or 62-8 of this chapter may award reasonable attorney's fees to the prevailing party and assess court costs against the non-prevailing party.
- (C91, § 2-322.03; O.12,072; C00, § 62-107; O.13,922)

Secs. 62-108--62-135. Reserved.

ARTICLE V. DISCRIMINATORY PUBLIC ACCOMMODATIONS PRACTICES*

*Cross reference(s)--Businesses, ch. 30.

Sec. 62-136. Enumerated.

It shall be an illegal discriminatory public accommodations practice for any person, owner, lessor, lessee, sublessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation to:

- (1) Refuse or deny to any person because of race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability the accommodations, advantages, facilities, goods, services, or privileges thereof or otherwise discriminate, separate, segregate or make a distinction against any person because of race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability in the furnishing of such accommodations, advantages, facilities, goods, services or privileges.
- (2) Directly or indirectly print or circulate or cause to be printed or circulated any advertisement, statement, publication or use any form of application for entrance and membership which expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability or indicate or publicize that the patronage of persons of any particular race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability is unwelcome, objectionable, not acceptable, or not solicited.
- (3) Discriminate against any other person because such person has opposed any practice forbidden under this chapter or has filed a complaint, testified or assisted in any proceeding under this chapter.

- (4) Aid, incite, compel, coerce, or participate in the doing of any act declared to be a discriminatory accommodations practice under this section, or attempt, directly or indirectly, to commit any act declared by this section to be a discriminatory practice.

(C62, §§ 25A-8, 25A-9; O.7738, 8291, 8920; C75, § 2-317; O.9337; C79, § 2-317; C91, § 2-317(a); C00, § 62-136; O.13,965)

Sec. 62-137. Exemptions.

Nothing in this article shall be construed to apply to the following:

- (1) Any bona fide religious institution with respect to any qualifications the institutions may impose based on religion or sexual orientation, when such qualifications are related to a bona fide religious purpose.
- (2) The rental or leasing to transient individuals of fewer 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 the occupant's or owner's family reside therein.
- (3) Restrictions based on sex on the rental or leasing of housing accommodations by nonprofit corporations.
- (4) Restrictions based on sex on the rental or leasing of housing accommodations which the owner can show were operated for the purpose of providing housing for persons of any one sex prior to January 21, 1972.

(C62, §§ 25A-8, 25A-9; O.7738, 8291, 8920; C75, § 2-317; O.9337; C79, § 2-317; C91, § 2-317(b); C00, § 62-137; O.13,965)

Secs. 62-138--62-165. Reserved.

ARTICLE VI. DISCRIMINATORY MUNICIPAL PRACTICES*

*Cross reference(s)--Administration, ch. 2.

Sec. 62-166. Illegal practices.

It shall be an illegal discriminatory municipal practice for the city or any employee, official, agent or representative of the city to refuse or deny to any person, because of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability, the services, advantages, facilities or privileges offered by the city or otherwise to discriminate, separate, segregate, or make a distinction against any person, because of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability, in the furnishing of such services, advantages, facilities or privileges. (C62, § 25A-10; O.7738, 8291, 8920; C75, § 2-318; O.9337; C79, C91, § 2-318; C00, § 62-166; O.13,922, 13,965)

Sec. 62-167. Reasonable accommodation.

The city declares its intent to make reasonable accommodation in rules, policies, practices, or services, when the accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. Any person seeking reasonable accommodation in any rules, policies, practices, or services of the city, other than those adopted by the city in its

capacity as a municipal housing agency, shall make application in the manner provided in section 2-1233 of this Code. Any person seeking reasonable accommodation in any rules, policies, practices, or services adopted by the city in its capacity as a municipal housing agency shall make application to the director of housing services. (C91, § 2-318.01; O.13,383)

Sec. 62-168. City contracts.

The city and all of the contracting departments, divisions, boards, commissions, officials, agents and employees shall include in all contracts a provision obligating the contractor not to commit any of the illegal discriminatory employment practices set forth in this chapter and shall require such contractor to include the same provision in all subcontracts. (C54, § 2-422; O.5775; C62, § 2-422; O.7738; C62, § 25A-11; O.8920; C75, § 2-319; O.9337; C79, C91, § 2-319; C00, § 62-168; O.13,922)

Sec. 62-169. Nondiscrimination in urban renewal projects.

Nondiscrimination clauses shall be included in all leases and contracts which the city proposes to enter into with respect to the lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any land in an urban renewal project, in substantially the following form:

- (1) Leases. The lessee herein covenants by and for the lessee and the lessee's heirs, executors, administrators and assigns, and all persons claiming under or through them, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons on account of race, religion, creed, color, sex, sexual orientation, national origin, or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased, nor shall the lessee or any person claiming under or through the lessee establish or permit any such practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased.
- (2) Contracts. In contracts relating to the sale, transfer, or leasing of land, or any interest therein acquired by the city, within any urban renewal area or project, the provisions in subsection (1) of this section in substantially the forms set forth shall be included, and such contracts shall further provide that such provisions shall be binding upon and shall obligate the contracting party and any subcontracting party or other transferees under such instrument.

(C54, § 2-425.01; O.6076; C62, § 2-425.01; O.7738; C62, § 25A-12; O.8291, 8920; C75, § 2-320; O.9337; C79, C91, § 2-320)